

[<<Prev Rule](#)

Texas Administrative Code

[Next Rule>>](#)**TITLE 40****SOCIAL SERVICES AND ASSISTANCE****PART 1****DEPARTMENT OF AGING AND DISABILITY SERVICES****CHAPTER 19****NURSING FACILITY REQUIREMENTS FOR LICENSURE AND MEDICAID CERTIFICATION****SUBCHAPTER A****BASIS AND SCOPE****RULE §19.1****Basis and Scope**

(a) Basis in legislation. The Nursing Facility Requirements for Licensure and Medicaid Certification specify requirements of federal and state laws and regulations governing licensed nursing facilities and the Title XIX Nursing Facilities vendor program administered by the Texas Department of Human Services (DHS) in cooperation with other federal and state agencies. If there is a conflict between material in these requirements and the laws or regulations governing the program, the latter are controlling. It is the intent of the Texas Legislature that rules adopted under §242 of the Health and Safety Code may be more stringent than the standards imposed by federal law for certification for participation in the state Medicaid program. The rules and standards may not be less stringent than the Medicaid certification standards imposed under the Omnibus Budget Reconciliation Act of 1987.

(b) Scope. The Nursing Facility Requirements for Licensure and Medicaid Certification contain the requirements that an institution must meet in order to be licensed as a nursing facility and also to qualify to participate in the Medicaid program. The requirements serve as a basis for survey activities for licensure and certification.

(1) Certain requirements are specific to Medicaid-certified facilities and are so designated. The Medicaid-specific requirements apply to all residents, including, but not limited to private pay, Medicaid applicants and recipients, VA patients, and Medicare recipients, who are admitted to and reside in a Medicaid-certified facility or a Medicaid-certified distinct part of a facility.

(2) Additional Requirements for facilities or distinct parts of facilities that are certified for Medicare-only participation are in Chapter 42, Code of Federal Regulations, §§483.5-483.75.

(3) These requirements do not apply to skilled nursing facilities (SNFs) licensed under the Health and Safety Code, Chapter 241, participating only in the Medicare program.

(4) Additional documents that a facility may need for reference include, but are not limited to:

(A) Medication Aide Rules (DHS);

(B) Nurse Aide Training Rules (DHS);

(C) Nurse Aide Training Manual (DHS);

(D) Occupational Safety and Health Administration (OSHA) rules and guidelines;

(E) rules and regulations for the Control of Communicable Diseases (TDH);

(F) Medical Waste Regulation in Texas (Publication RG-1, Texas Natural Resource Conservation Commission);

(G) Nurse Practice Act and Licensed Vocational Nurse Act;

(H) Food Establishment Rules (TDH);

(I) Centers for Disease Control:

(i) Handwashing Guidelines;

(ii) Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public Safety Workers;

(iii) Guidelines for Isolation Precautions in Hospitals and Infection Control in Hospital Personnel;

(iv) Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures; and

(v) Prevention and Control of Tuberculosis in Facilities Providing Long Term Care to the Elderly;

(J) §§96.1-96.9 of this title (relating to Certification of Long Term Care Facilities);

(K) Methicillin-Resistant Staphylococcus Aureus: A Protocol for Infection Control (TDH); and

(L) HIV/AIDS Model Workplace Guidelines (TDH).

Source Note: The provisions of this §19.1 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective March 1, 1998, 23 TexReg 1314; amended to be effective August 1, 2000, 25 TexReg 6779

[Next Page](#)

[Previous Page](#)

[List of Titles](#)

[Back to List](#)

[HOME](#) | [TEXAS REGISTER](#) | [TEXAS ADMINISTRATIVE CODE](#) | [OPEN MEETINGS](#) | [HELP](#) |

[<<Prev Rule](#)**Texas Administrative Code**[Next Rule>>](#)**TITLE 40****SOCIAL SERVICES AND ASSISTANCE****PART 1****DEPARTMENT OF AGING AND DISABILITY SERVICES****CHAPTER 19****NURSING FACILITY REQUIREMENTS FOR LICENSURE
AND MEDICAID CERTIFICATION****SUBCHAPTER B****DEFINITIONS****RULE §19.101****Definitions**

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

(1) Abuse--Any act, failure to act, or incitement to act done willfully, knowingly, or recklessly through words or physical action which causes or could cause mental or physical injury or harm or death to a resident. This includes verbal, sexual, mental/psychological, or physical abuse, including corporal punishment, involuntary seclusion, or any other actions within this definition.

(A) "Involuntary seclusion"--Separation of a resident from others or from his room against the resident's will or the will of the resident's legal representative. Temporary monitored separation from other residents will not be considered involuntary seclusion and may be permitted if used as a therapeutic intervention as determined by professional staff and consistent with the resident's plan of care.

(B) "Mental/psychological abuse"--Mistreatment within the definition of "abuse" not resulting in physical harm, including, but not limited to, humiliation, harassment, threats of punishment, deprivation, or intimidation.

(C) "Physical abuse"--Physical action within the definition of "abuse," including, but not limited to, hitting, slapping, pinching, and kicking. It also includes controlling behavior through corporal punishment.

(D) "Sexual abuse"--Any touching or exposure of the anus, breast, or any part of the genitals of a resident without the voluntary, informed consent of the resident and with the intent to arouse or gratify the sexual desire of any person and includes but is not limited to sexual harassment, sexual coercion, or sexual assault.

(E) "Verbal abuse"--The use of any oral, written, or gestured language that includes disparaging or derogatory terms to a resident or within the resident's hearing distance, regardless of the resident's age, ability to comprehend, or disability.

(2) Act--Chapter 242 of the Texas Health and Safety Code.

(3) Activities assessment--See Comprehensive Assessment and Comprehensive Care Plan.

(4) Activities director--The qualified individual appointed by the facility to direct the activities program as described in §19.702 of this chapter (relating to Activities).

(5) Addition--The addition of floor space to an institution.

(6) Administrator--Licensed nursing facility administrator.

- (7) Admission MDS assessment--An MDS assessment that determines a recipient's initial determination of eligibility for medical necessity for admission into the Texas Medicaid Nursing Facility Program.
- (8) Affiliate--With respect to a:
- (A) partnership, each partner thereof;
 - (B) corporation, each officer, director, principal stockholder, and subsidiary; and each person with a disclosable interest;
 - (C) natural person, which includes each:
 - (i) person's spouse;
 - (ii) partnership and each partner thereof of which said person or any affiliate of said person is a partner; and
 - (iii) corporation in which said person is an officer, director, principal stockholder, or person with a disclosable interest.
- (9) Agent--An adult to whom authority to make health care decisions is delegated under a durable power of attorney for health care.
- (10) Applicant--A person or governmental unit, as those terms are defined in the Texas Health and Safety Code, Chapter 242, applying for a license under that chapter.
- (11) APA--The Administrative Procedure Act, Texas Government Code, Chapter 2001.
- (12) Attending physician--A physician, currently licensed by the Texas Medical Board, who is designated by the resident or responsible party as having primary responsibility for the treatment and care of the resident.
- (13) Authorized electronic monitoring--The placement of an electronic monitoring device in a resident's room and using the device to make tapes or recordings after making a request to the facility to allow electronic monitoring.
- (14) Barrier precautions--Precautions including the use of gloves, masks, gowns, resuscitation equipment, eye protectors, aprons, faceshields, and protective clothing for purposes of infection control.
- (15) Care and treatment--Services required to maximize resident independence, personal choice, participation, health, self-care, psychosocial functioning and reasonable safety, all consistent with the preferences of the resident.
- (16) Certification--The determination by DADS that a nursing facility meets all the requirements of the Medicaid and/or Medicare programs.
- (17) CFR--Code of Federal Regulations.
- (18) CMS--Centers for Medicare & Medicaid Services, formerly the Health Care Financing Administration (HCFA).

(19) Complaint--Any allegation received by DADS other than an incident reported by the facility. Such allegations include, but are not limited to, abuse, neglect, exploitation, or violation of state or federal standards.

(20) Completion date--The date an RN assessment coordinator signs an MDS assessment as complete.

(21) Comprehensive assessment--An interdisciplinary description of a resident's needs and capabilities including daily life functions and significant impairments of functional capacity, as described in §19.801(2) of this chapter (relating to Resident Assessment).

(22) Comprehensive care plan--A plan of care prepared by an interdisciplinary team that includes measurable short-term and long-term objectives and timetables to meet the resident's needs developed for each resident after admission. The plan addresses at least the following needs: medical, nursing, rehabilitative, psychosocial, dietary, activity, and resident's rights. The plan includes strategies developed by the team, as described in §19.802(b)(2) of this chapter (relating to Comprehensive Care Plans), consistent with the physician's prescribed plan of care, to assist the resident in eliminating, managing, or alleviating health or psychosocial problems identified through assessment. Planning includes:

(A) goal setting;

(B) establishing priorities for management of care;

(C) making decisions about specific measures to be used to resolve the resident's problems; and/or

(D) assisting in the development of appropriate coping mechanisms.

(23) Controlled substance--A drug, substance, or immediate precursor as defined in the Texas Controlled Substance Act, Texas Health and Safety Code, Chapter 481, and/or the Federal Controlled Substance Act of 1970, Public Law 91-513.

(24) Controlling person--A person with the ability, acting alone or in concert with others, to directly or indirectly, influence, direct, or cause the direction of the management, expenditure of money, or policies of a nursing facility or other person. A controlling person does not include a person, such as an employee, lender, secured creditor, or landlord, who does not exercise any influence or control, whether formal or actual, over the operation of a facility. A controlling person includes:

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

(B) any person who is a controlling person of a management company or other business entity that operates a nursing facility or that contracts with another person for the operation of a nursing 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 definition 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 nursing facility, is in a position of actual control or authority with respect to the nursing facility, without regard to whether the individual is formally named as an owner, manager, director,

officer, provider, consultant, contractor, or employee of the facility.

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

(26) DADS--The Department of Aging and Disability Services.

(27) Dangerous drugs--Any drug as defined in the Texas Health and Safety Code, Chapter 483.

(28) Dentist--A practitioner licensed by the Texas State Board of Dental Examiners.

(29) Department--Department of Aging and Disability Services.

(30) DHS--Formerly, this term referred to the Texas Department of Human Services; it now refers to DADS, unless the context concerns an administrative hearing. Administrative hearings were formerly the responsibility of DHS; they now are the responsibility of the Texas Health and Human Services Commission (HHSC).

(31) Dietitian--A qualified dietitian is one who is qualified based upon either:

(A) registration by the Commission on Dietetic Registration of the American Dietetic Association; or

(B) licensure, or provisional licensure, by the Texas State Board of Examiners of Dietitians. These individuals must have one year of supervisory experience in dietetic service of a health care facility.

(32) Direct care by licensed nurses--Direct care consonant with the physician's planned regimen of total resident care includes:

(A) assessment of the resident's health care status;

(B) planning for the resident's care;

(C) assignment of duties to achieve the resident's care;

(D) nursing intervention; and

(E) evaluation and change of approaches as necessary.

(33) Distinct part--That portion of a facility certified to participate in the Medicaid Nursing Facility program.

(34) Drug (also referred to as medication)--Any of the following:

(A) any substance recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(B) any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;

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

(D) any substance intended for use as a component of any substance specified in subparagraphs (A) - (C) of this definition. It does not include devices or their components, parts, or accessories.

(35) Electronic monitoring device--Video surveillance cameras and audio devices installed in a resident's room, designed to 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.

(36) Emergency--A sudden change in a resident's condition requiring immediate medical intervention.

(37) Exploitation--The illegal or improper act or process of a caretaker using the resources of an elderly or disabled person for monetary or personal benefit, profit, or gain.

(38) Exposure (infections)--The direct contact of blood or other potentially infectious materials of one person with the skin or mucous membranes of another person. Other potentially infectious materials include the following human body fluids: semen, vaginal secretions, cerebrospinal fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, and body fluid that is visibly contaminated with blood, and all body fluids when it is difficult or impossible to differentiate between body fluids.

(39) Facility--Unless otherwise indicated, a facility is an institution that provides organized and structured nursing care and service and is subject to licensure under Texas Health and Safety Code, Chapter 242.

(A) For Medicaid, a facility is a nursing facility which meets the requirements of §1919(a)-(d) of the Social Security Act. A facility may not include any institution that is for the care and treatment of mental diseases except for services furnished to individuals age 65 and over and who are eligible as defined in §19.2500 of this chapter (relating to Preadmission Screening and Resident Review (PASARR)).

(B) For Medicare and Medicaid purposes (including eligibility, coverage, certification, and payment), the "facility" is always the entity which participates in the program, whether that entity is comprised of all of, or a distinct part of, a larger institution.

(C) "Facility" is also referred to as a nursing home or nursing facility. Depending on context, these terms are used to represent the management, administrator, or other persons or groups involved in the provision of care of the resident; or to represent the physical building, which may consist of one or more floors or one or more units, or which may be a distinct part of a licensed hospital.

(40) Family council--A group of family members, friends, or legal guardians of residents, who organize and meet privately or openly.

Cont'd...

[Next Page](#)

[Previous Page](#)

List of Titles

Back to List

[<<Prev Rule](#)

Texas Administrative Code

[Next Rule>>](#)**TITLE 40****SOCIAL SERVICES AND ASSISTANCE****PART 1****DEPARTMENT OF AGING AND DISABILITY SERVICES****CHAPTER 19****NURSING FACILITY REQUIREMENTS FOR LICENSURE
AND MEDICAID CERTIFICATION****SUBCHAPTER B****DEFINITIONS****RULE §19.101****Definitions**

(41) Family representative--An individual appointed by the resident to represent the resident and other family members, by formal or informal arrangement.

(42) Fiduciary agent--An individual who holds in trust another's monies.

(43) Free choice--Unrestricted right to choose a qualified provider of services.

(44) Goals--Long-term: general statements of desired outcomes. Short-term: measurable time-limited, expected results that provide the means to evaluate the resident's progress toward achieving long-term goals.

(45) Governmental unit--A state or a political subdivision of the state, including a county or municipality.

(46) HCFA--Health Care Financing Administration, now the Centers for Medicare & Medicaid Services (CMS).

(47) Health care provider--An individual, including a physician, or facility licensed, certified, or otherwise authorized to administer health care, in the ordinary course of business or professional practice.

(48) Hearing--A contested case hearing held in accordance with the Administrative Procedure Act, Texas Government Code, Chapter 2001, and the formal hearing procedures in 1 TAC Chapter 357, Subchapter I.

(49) HIV--Human Immunodeficiency Virus.

(50) Incident--An abnormal event, including accidents or injury to staff or residents, which is documented in facility reports. An occurrence in which a resident may have been subject to abuse, neglect, or exploitation must also be reported to DADS.

(51) Infection control--A program designed to prevent the transmission of disease and infection in order to provide a safe and sanitary environment.

(52) Inspection--Any on-site visit to or survey of an institution by DADS for the purpose of licensing, monitoring, complaint investigation, architectural review, or similar purpose.

(53) Interdisciplinary care plan--See the definition of "comprehensive care plan."

(54) IV--Intravenous.

(55) Legend drug or prescription drug--Any drug that requires a written or telephonic order of a practitioner

before it may be dispensed by a pharmacist, or that may be delivered to a particular resident by a practitioner in the course of the practitioner's practice.

(56) Licensed health professional--A physician; physician assistant; nurse practitioner; physical, speech, or occupational therapist; pharmacist; physical or occupational therapy assistant; registered professional nurse; licensed vocational nurse; licensed dietitian; or licensed social worker.

(57) Licensed nursing home (facility) administrator--A person currently licensed by DADS in accordance with Chapter 18 of this title (relating to Nursing Facility Administrators).

(58) Licensed vocational nurse (LVN)--A nurse who is currently licensed by the Texas Board of Nursing as a licensed vocational nurse.

(59) Life Safety Code (also referred to as the Code or NFPA 101)--The Code for Safety to Life from Fire in Buildings and Structures, Standard 101, of the National Fire Protection Association (NFPA).

(60) Life safety features--Fire safety components required by the Life Safety Code, including, but not limited to, building construction, fire alarm systems, smoke detection systems, interior finishes, sizes and thicknesses of doors, exits, emergency electrical systems, and sprinkler systems.

(61) Life support--Use of any technique, therapy, or device to assist in sustaining life. (See §19.419 of this chapter (relating to Advance Directives)).

(62) Local authorities--Persons, including, but not limited to, local health authority, fire marshal, and building inspector, who may be authorized by state law, county order, or municipal ordinance to perform certain inspections or certifications.

(63) Local health authority--The physician appointed by the governing body of a municipality or the commissioner's court of the county to administer state and local laws relating to public health in the municipality's or county's jurisdiction as defined in Texas Health and Safety Code, §121.021.

(64) Long-term care-regulatory--DADS' Regulatory Services Division, which is responsible for surveying nursing facilities to determine compliance with regulations for licensure and certification for Title XIX participation.

(65) Manager--A person, other than a licensed nursing home administrator, having a contractual relationship to provide management services to a facility.

(66) Management services--Services provided under contract between the owner of a facility and a person to provide for the operation of a facility, including administration, staffing, maintenance, or delivery of resident services. Management services do not include contracts solely for maintenance, laundry, or food service.

(67) MDS--Minimum data set. See Resident Assessment Instrument (RAI).

(68) MDS nurse reviewer--A registered nurse employed by HHSC to monitor the accuracy of the MDS assessment submitted by a Medicaid-certified nursing facility.

(69) Medicaid applicant--A person who requests the determination of eligibility to become a Medicaid

(70) Medicaid nursing facility vendor payment system--Electronic billing and payment system for reimbursement to nursing facilities for services provided to eligible Medicaid recipients.

(71) Medicaid recipient--A person who meets the eligibility requirements of the Title XIX Medicaid program, is eligible for nursing facility services, and resides in a Medicaid-participating facility.

(72) Medical director--A physician licensed by the Texas Medical Board, who is engaged by the nursing home to assist in and advise regarding the provision of nursing and health care.

(73) Medical necessity (MN)--The determination that a recipient requires the services of licensed nurses in an institutional setting to carry out the physician's planned regimen for total care. A recipient's need for custodial care in a 24-hour institutional setting does not constitute a medical need. A group of health care professionals employed or contracted by the state Medicaid claims administrator contracted with HHSC makes individual determinations of medical necessity regarding nursing facility care. These health care professionals consist of physicians and registered nurses.

(74) Medical power of attorney--The legal document that designates an agent to make treatment decisions if the individual designator becomes incapable.

(75) Medical-social care plan--See Interdisciplinary Care Plan.

(76) Medically related condition--An organic, debilitating disease or health disorder that requires services provided in a nursing facility, under the supervision of licensed nurses.

(77) Medication aide--A person who holds a current permit issued under the Medication Aide Training Program as described in Chapter 95 of this title (relating to Medication Aides--Program Requirements) and acts under the authority of a person who holds a current license under state law which authorizes the licensee to administer medication.

(78) Misappropriation of funds--The taking, secretion, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the legal control of a resident without the effective consent of the resident or other appropriate legal authority, or the taking of any action contrary to any duty imposed by federal or state law prescribing conduct relating to the custody or disposition of property of a resident.

(79) Neglect--A deprivation of life's necessities of food, water, or shelter, or a failure of an individual to provide services, treatment, or care to a resident which causes or could cause mental or physical injury, or harm or death to the resident.

(80) NHIC--Formerly, this term referred to the National Heritage Insurance Corporation. It now refers to the state Medicaid claims administrator.

(81) Nonnursing personnel--Persons not assigned to give direct personal care to residents; including administrators, secretaries, activities directors, bookkeepers, cooks, janitors, maids, laundry workers, and yard maintenance workers.

(82) Nurse aide--An individual who provides nursing or nursing-related services to residents in a facility under the supervision of a licensed nurse. This definition does not include an individual who is a licensed health professional, a registered dietitian, or someone who volunteers such services without pay. A nurse aide is not authorized to provide nursing and/or nursing-related services for which a license or registration is required under state law. Nurse aides do not include those individuals who furnish services to residents only as paid feeding assistants.

(83) Nurse aide trainee--An individual who is attending a program teaching nurse aide skills.

(84) Nurse practitioner--A person licensed by the Texas Board of Nursing as a registered professional nurse, authorized by the Texas Board of Nursing as an advanced practice nurse in the role of nurse practitioner.

(85) Nursing assessment--See definition of "comprehensive assessment" and "comprehensive care plan."

(86) Nursing care--Services provided by nursing personnel which include, but are not limited to, observation; promotion and maintenance of health; prevention of illness and disability; management of health care during acute and chronic phases of illness; guidance and counseling of individuals and families; and referral to physicians, other health care providers, and community resources when appropriate.

(87) Nursing facility/home--An institution that provides organized and structured nursing care and service, and is subject to licensure under Texas Health and Safety Code, Chapter 242. The nursing facility may also be certified to participate in the Medicaid Title XIX program. Depending on context, these terms are used to represent the management, administrator, or other persons or groups involved in the provision of care to the residents; or to represent the physical building, which may consist of one or more floors or one or more units, or which may be a distinct part of a licensed hospital.

(88) Nursing facility/home administrator--See the definition of "licensed nursing home (facility) administrator."

(89) Nursing personnel--Persons assigned to give direct personal and nursing services to residents, including registered nurses, licensed vocational nurses, nurse aides, orderlies, and medication aides. Unlicensed personnel function under the authority of licensed personnel.

(90) Objectives--See definition of "goals."

(91) OBRA--Omnibus Budget Reconciliation Act of 1987, which includes provisions relating to nursing home reform, as amended.

(92) Ombudsman--An advocate who is a certified representative, staff member, or volunteer of the DADS Office of the State Long Term Care Ombudsman.

(93) Optometrist--An individual with the profession of examining the eyes for defects of refraction and prescribing lenses for correction who is licensed by the Texas Optometry Board.

(94) Paid feeding assistant--An individual who meets the requirements of §19.1113 of this chapter (relating to Paid Feeding Assistants) and who is paid to feed residents by a facility or who is used under an arrangement with another agency or organization.

(95) PASARR--Preadmission Screening and Resident Review.

(96) Palliative Plan of Care--Appropriate medical and nursing care for residents with advanced and progressive diseases for whom the focus of care is controlling pain and symptoms while maintaining optimum quality of life.

(97) Patient care-related electrical appliance--An electrical appliance that is intended to be used for diagnostic, therapeutic, or monitoring purposes in a patient care area, as defined in Standard 99 of the National Fire Protection Association.

(98) Person--An individual, firm, partnership, corporation, association, joint stock company, limited partnership, limited liability company, or any other legal entity, including a legal successor of those entities.

(99) Person with a disclosable interest--A person with a disclosable interest is any person who owns at least a 5.0% interest in any corporation, partnership, or other business entity that is required to be licensed under Texas Health and Safety Code, Chapter 242. A person with a disclosable interest does not include a bank, savings and loan, savings bank, trust company, building and loan association, credit union, individual loan and thrift company, investment banking firm, or insurance company, unless these entities participate in the management of the facility.

(100) Pharmacist--An individual, licensed by the Texas State Board of Pharmacy to practice pharmacy, who prepares and dispenses medications prescribed by a physician, dentist, or podiatrist.

(101) Physical restraint--See Restraints (physical).

(102) Physician--A doctor of medicine or osteopathy currently licensed by the Texas Medical Board.

(103) Physician assistant (PA)--

(A) A graduate of a physician assistant training program who is accredited by the Committee on Allied Health Education and Accreditation of the Council on Medical Education of the American Medical Association;

Cont'd...

[Next Page](#)

[Previous Page](#)

List of Titles

Back to List

[HOME](#) | [TEXAS REGISTER](#) | [TEXAS ADMINISTRATIVE CODE](#) | [OPEN MEETINGS](#) | [HELP](#) |

[<<Prev Rule](#)**Texas Administrative Code**[Next Rule>>](#)**TITLE 40****SOCIAL SERVICES AND ASSISTANCE****PART 1****DEPARTMENT OF AGING AND DISABILITY SERVICES****CHAPTER 19****NURSING FACILITY REQUIREMENTS FOR LICENSURE
AND MEDICAID CERTIFICATION****SUBCHAPTER B****DEFINITIONS****RULE §19.101****Definitions**

(B) A person who has passed the examination given by the National Commission on Certification of Physician Assistants. According to federal requirements (42 CFR §491.2) a physician assistant is a person who meets the applicable state requirements governing the qualifications for assistant to primary care physicians, and who meets at least one of the following conditions:

(i) is currently certified by the National Commission on Certification of Physician Assistants to assist primary care physicians; or

(ii) has satisfactorily completed a program for preparing physician assistants that:

(I) was at least one academic year in length;

(II) consisted of supervised clinical practice and at least four months (in the aggregate) of classroom instruction directed toward preparing students to deliver health care; and

(III) was accredited by the American Medical Association's Committee on Allied Health Education and Accreditation; or

(C) A person who has satisfactorily completed a formal educational program for preparing physician assistants who does not meet the requirements of paragraph (d)(2), 42 CFR §491.2, and has been assisting primary care physicians for a total of 12 months during the 18-month period immediately preceding July 14, 1978.

(104) Podiatrist--A practitioner whose profession encompasses the care and treatment of feet who is licensed by the Texas State Board of Podiatric Medical Examiners.

(105) Poison--Any substance that federal or state regulations require the manufacturer to label as a poison and is to be used externally by the consumer from the original manufacturer's container. Drugs to be taken internally that contain the manufacturer's poison label, but are dispensed by a pharmacist only by or on the prescription order of a physician, are not considered a poison, unless regulations specifically require poison labeling by the pharmacist.

(106) Practitioner--A physician, podiatrist, dentist, or an advanced practice nurse or physician assistant to whom a physician has delegated authority to sign a prescription order, when relating to pharmacy services.

(107) PRN (pro re nata)--As needed.

(108) Provider--The individual or legal business entity that is contractually responsible for providing Medicaid services under an agreement with DADS.

(109) Psychoactive drugs--Drugs prescribed to control mood, mental status, or behavior.

(110) Qualified surveyor--An employee of DADS who has completed state and federal training on the survey process and passed a federal standardized exam.

(111) Quality assessment and assurance committee--A group of health care professionals in a facility who develop and implement appropriate action to identify and rectify substandard care and deficient facility practice.

(112) Quality-of-care monitor--A registered nurse, pharmacist, or dietitian employed by DADS who is trained and experienced in long-term care facility regulation, standards of practice in long-term care, and evaluation of resident care, and functions independently of DADS' Regulatory Services Division.

(113) Recipient--Any individual residing in a Medicaid certified facility or a Medicaid certified distinct part of a facility whose daily vendor rate is paid by Medicaid.

(114) Registered nurse (RN)--An individual currently licensed by the Texas Board of Nursing as a Registered Nurse in the State of Texas.

(115) Reimbursement methodology--The method by which HHSC determines nursing facility per diem rates.

(116) Remodeling--The construction, removal, or relocation of walls and partitions, the construction of foundations, floors, or ceiling-roof assemblies, the expanding or altering of safety systems (including, but not limited to, sprinkler, fire alarm, and emergency systems) or the conversion of space in a facility to a different use.

(117) Renovation--The restoration to a former better state by cleaning, repairing, or rebuilding, including, but not limited to, routine maintenance, repairs, equipment replacement, painting.

(118) Representative payee--A person designated by the Social Security Administration to receive and disburse benefits, act in the best interest of the beneficiary, and ensure that benefits will be used according to the beneficiary's needs.

(119) Resident--Any individual residing in a nursing facility.

(120) Resident assessment instrument (RAI)--An assessment tool used to conduct comprehensive, accurate, standardized, and reproducible assessments of each resident's functional capacity as specified by the Secretary of the U.S. Department of Health and Human Services. At a minimum, this instrument must consist of the Minimum Data Set (MDS) core elements as specified by the Centers for Medicare & Medicaid Services (CMS); utilization guidelines; and Resident Assessment Protocols (RAPS).

(121) Resident group--A group or council of residents who meet regularly to:

(A) discuss and offer suggestions about the facility policies and procedures affecting residents' care, treatment, and quality of life;

(B) plan resident activities;

(C) participate in educational activities; or

(D) for any other purpose.

(122) Responsible party--An individual authorized by the resident to act for him as an official delegate or agent. Responsible party is usually a family member or relative, but may be a legal guardian or other individual. Authorization may be in writing or may be given orally.

(123) 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.

(124) Restraints (chemical)--Psychoactive drugs administered for the purposes of discipline, or convenience, and not required to treat the resident's medical symptoms.

(125) Restraints (physical)--Any manual method, or physical or mechanical device, material or equipment attached, or adjacent to the resident's body, that the individual cannot remove easily which restricts freedom of movement or normal access to one's body. The term includes a restraint hold.

(126) RN assessment coordinator--A registered nurse who signs and certifies a comprehensive assessment of a resident's needs, using the RAI, including the MDS, as specified by DADS.

(127) RUG--Resource Utilization Group. A categorization method, consisting of 34 categories based on the MDS, that is used to determine a recipient's service and care requirements and to determine the daily rate DADS pays a nursing facility for services provided to the recipient.

(128) Seclusion--See the definition of "involuntary seclusion" in paragraph (1)(A) of this section.

(129) Secretary--Secretary of the U.S. Department of Health and Human Services.

(130) Services required on a regular basis--Services which are provided at fixed or recurring intervals and are needed so frequently that it would be impractical to provide the services in a home or family setting. Services required on a regular basis include continuous or periodic nursing observation, assessment, and intervention in all areas of resident care.

(131) SNF--A skilled nursing facility or distinct part of a facility that participates in the Medicare program. SNF requirements apply when a certified facility is billing Medicare for a resident's per diem rate.

(132) Social Security Administration--Federal agency for administration of social security benefits. Local social security administration offices take applications for Medicare, assist beneficiaries file claims, and provide information about the Medicare program.

(133) Social worker--A qualified social worker is an individual who is licensed, or provisionally licensed, by the Texas State Board of Social Work Examiners as prescribed by the Texas Occupations Code, Chapter 505, and who has at least:

(A) a bachelor's degree in social work; or

(B) similar professional qualifications, which include a minimum educational requirement of a bachelor's degree and one year experience met by employment providing social services in a health care setting.

(134) Standards--The minimum conditions, requirements, and criteria established in this chapter with which an institution must comply to be licensed under this chapter.

(135) State Medicaid claims administrator--The entity under contract with HHSC to process Medicaid claims in Texas.

(136) State plan--A formal plan for the medical assistance program, submitted to CMS, in which the State of Texas agrees to administer the program in accordance with the provisions of the State Plan, the requirements of Titles XVIII and XIX, and all applicable federal regulations and other official issuances of the U.S. Department of Health and Human Services.

(137) State survey agency--DADS is the agency, which through contractual agreement with CMS is responsible for Title XIX (Medicaid) survey and certification of nursing facilities.

(138) Supervising physician--A physician who assumes responsibility and legal liability for services rendered by a physician assistant (PA) and has been approved by the Texas Medical Board to supervise services rendered by specific PAs. A supervising physician may also be a physician who provides general supervision of a nurse practitioner providing services in a nursing facility.

(139) Supervision--General supervision, unless otherwise identified.

(140) Supervision (direct)--Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence. If the person being supervised does not meet assistant-level qualifications specified in this chapter and in federal regulations, the supervisor must be on the premises and directly supervising.

(141) Supervision (general)--Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence. The person being supervised must have access to the licensed and/or qualified person providing the supervision.

(142) Supervision (intermittent)--Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. The person being supervised must have access to the licensed and/or qualified person providing the supervision.

(143) *Texas Register* --A publication of the Texas Register Publications Section of the Office of the Secretary of State that contains emergency, proposed, withdrawn, and adopted rules issued by Texas state agencies. The *Texas Register* was established by the Administrative Procedure and Texas Register Act of 1975.

(144) Therapeutic diet--A diet ordered by a physician as part of treatment for a disease or clinical condition, in order to eliminate, decrease, or increase certain substances in the diet or to provide food which has been altered to make it easier for the resident to eat.

(145) Therapy week--A seven-day period beginning the first day rehabilitation therapy or restorative nursing care is given. All subsequent therapy weeks for a particular individual will begin on that day of the week.

(146) Threatened violation--A situation that, unless immediate steps are taken to correct, may cause injury or harm to a resident's health and safety.

(147) Title II--Federal Old-Age, Survivors, and Disability Insurance Benefits of the Social Security Act.

(148) Title XVI--Supplemental Security Income (SSI) of the Social Security Act.

(149) Title XVIII--Medicare provisions of the Social Security Act.

(150) Title XIX--Medicaid provisions of the Social Security Act.

(151) Total health status--Includes functional status, medical care, nursing care, nutritional status, rehabilitation and restorative potential, activities potential, cognitive status, oral health status, psychosocial status, and sensory and physical impairments.

(152) UAR--HHSC's Utilization and Assessment Review Section.

(153) Uniform data set--See Resident Assessment Instrument (RAI).

(154) Universal precautions--The use of barrier and other precautions by long-term care facility employees and/or contract agents to prevent the spread of blood-borne diseases.

(155) Vendor payment--Payment made by DADS on a daily-rate basis for services delivered to recipients in Medicaid-certified nursing facilities. Vendor payment is based on the nursing facility's approved-to-pay claim processed by the state Medicaid claims administrator. The Nursing Facility Billing Statement, subject to adjustments and corrections, is prepared from information submitted by the nursing facility, which is currently on file in the computer system as of the billing date. Vendor payment is made at periodic intervals, but not less than once per month for services rendered during the previous billing cycle.

(156) Working day--Any 24-hour period, Monday through Friday, excluding state and federal holidays.

Source Note: The provisions of this §19.101 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective January 15, 1997, 21 TexReg 11970; amended to be effective March 1, 1998, 23 TexReg 1314; amended to be effective August 1, 2000, 25 TexReg 6779; amended to be effective June 1, 2001, 26 TexReg 3824; amended to be effective May 1, 2002, 27 TexReg 3207; amended to be effective June 1, 2004, 29 TexReg 5416; amended to be effective June 1, 2006, 31 TexReg 4449; amended to be effective September 1, 2008, 33 TexReg 6151; amended to be effective September 1, 2008, 33 TexReg 7264; amended to be effective June 1, 2010, 35 TexReg 4465

List of Titles

Back to List

HOME | TEXAS REGISTER | TEXAS ADMINISTRATIVE CODE | OPEN MEETINGS | HELP |