

[<<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 Z****PREADMISSION SCREENING AND RESIDENT REVIEW
(PASARR)****RULE §19.2500****Preadmission Screening and Resident Review (PASARR)**

(a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

(1) Acute inpatient care--An acute institutional setting that provides medical care, such as a hospital, but does not include inpatient psychiatric care.

(2) Alzheimer's disease--A degenerative disease of the central nervous system as diagnosed by a physician in accordance with the International Classification of Diseases 9th Revision Clinical Modification (ICD-9-CM).

(3) Amyotrophic lateral sclerosis--A degenerative motor neuron disease as diagnosed by a physician in accordance with International Classification of Diseases 9th Revision Clinical Modification (ICD-9-CM).

(4) Anencephaly--A developmental anomaly with absence of neural tissue in the cranium.

(5) Chronic obstructive pulmonary disease--A disease of the respiratory system as diagnosed by a physician in accordance with the International Classification of Diseases 9th Revision Clinical Modification (ICD-9-CM).

(6) Comatose--A state of unconsciousness characterized by the inability to respond to sensory stimuli as certified by a physician.

(7) Congestive heart failure--A disease of the circulatory system as diagnosed by a physician in accordance with International Classification of Diseases, 9th Revision Clinical Modification (ICD-9-CM).

(8) Convalescent care--Care provided after a person's release from an acute care hospital that is part of a medically prescribed period of recovery which does not exceed 120 days.

(9) Dementia--A degenerative disease of the central nervous system as diagnosed by a physician in accordance with the International Classification of Diseases 9th revision Clinical Modification (ICD-9-CM).

(10) Functioning at the brain stem level--A significantly impaired state of consciousness characterized by normal respirations and minimal (mostly reflexive) response to environmental stimuli as certified by a physician.

(11) Huntington's disease--A disease of the central nervous system diagnosed by a physician in accordance with the International Classification of Diseases 9th Revision Clinical Modification (ICD-9-CM).

(12) Legal representative--The parent of a minor child, the legal guardian, or the surrogate decision maker of

the applicant or the resident of a nursing facility.

(13) Level I--identification screening--The process of identifying individuals with an indication of mental illness, mental retardation and/or a related condition, who require a Level II PASARR assessment.

(14) Level II--PASARR assessment--Preadmission Screening and Resident Review assessment of persons with mental illness, mental retardation, and/or a related condition conducted in accordance with 42 United States Code Annotated, §1396r.

(15) Medical staff--Any staff licensed to practice medicine, such as a physician, registered nurse, or a licensed vocational nurse.

(16) Mental illness--A mental disorder is a schizophrenic, mood, paranoid, panic, or other severe anxiety disorder; somatoform disorder; personality disorder; other psychotic disorder; or another mental disorder that may lead to a chronic disability and does not have a primary diagnosis of dementia (including Alzheimer's disease or a related disorder). The disorder results in functional limitations in major life activities within the past three to six months that would be appropriate for the individual's developmental stage. The individual typically has at least one of the following characteristics on a continuing or intermittent basis: serious difficulty in the areas of interpersonal functioning; and/or concentration, persistence, and/or pace; and/or adaptation to change. Within the past two years, the disorder has required psychiatric treatment more than one time and more intensive than outpatient care and/or the individual has experienced an episode of significant disruption to the normal living situation for which supportive services were required to maintain functioning at home or in a residential treatment environment or which resulted in intervention by housing or law enforcement officials.

(17) Mental retardation--A diagnosis of mental retardation (mild, moderate, severe, and profound) and significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(18) New admission--An individual who is admitted to any nursing facility in which he has not recently resided and to which he cannot qualify as a readmission.

(19) Nursing facility--A Texas Medicaid-certified institution, except for a facility certified as an intermediate care facility for persons with mental retardation or related conditions (ICF/MR/RC), providing nursing services to nursing facility residents.

(20) Nursing facility applicant--An individual seeking admission to a Texas Medicaid-certified nursing facility.

(21) Nursing facility resident--An individual who resides in a Texas Medicaid-certified nursing facility and receives services provided by professional medical nursing personnel of the facility.

(22) QMHP--Qualified Mental Health Professional. An individual who has at least one year of experience working with persons with mental illness.

(23) QMRP--Qualified Mental Retardation Professional. An individual who has at least one year experience working with persons with mental retardation and/or a related condition.

(24) Parkinson's Disease--A degenerative disease of the central nervous system as diagnosed by a physician in accordance with the Classification of Diseases 9th Revision Clinical Modification (ICD-9-CM).

(25) PASARR--Preadmission screening and resident review.

(26) PASARR determination--A decision made by DADS or its designee to establish if an individual requires the level of services provided in a nursing facility, as defined by medical necessity, if the individual has the need for specialized services for mental illness, mental retardation, and/or a related condition. The decisions are based on information included in the Level II PASARR Assessment.

(27) Readmission--An individual who is readmitted to a nursing facility from a hospital to which he or she was transferred for the purpose of receiving care.

(28) Related condition--A severe, chronic disability as defined in 42 Code of Federal Regulations §435.1009, in the definition of persons with related conditions, that meets all of the following conditions:

(A) it is attributable to:

(i) cerebral palsy or epilepsy; or

(ii) any other condition including autism, but excluding mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation, and requires treatment or services similar to those required for these persons.

(B) it is manifested before the person reaches age 22.

(C) it is likely to continue indefinitely.

(D) it results in substantial functional limitations in three or more of the following areas of major life activity:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iv) mobility;

(v) self-direction; and

(vi) capacity for independent living.

(29) Specialized services for individuals with mental illness--The implementation of an individualized plan of care developed under and supervised by an Interdisciplinary Team, which includes a physician, and other qualified mental health professionals, that prescribes specific therapies and activities for the treatment of persons who are experiencing an acute episode of severe mental illness, which necessitates supervision by trained mental health personnel.

(30) Specialized services for individuals with mental retardation or a related condition--A continuous program for each resident, which includes aggressive, consistent implementation of specialized and generic training, treatment, health services and related services that is directed toward:

(A) the acquisition of the behaviors necessary for the resident to function with as much self-determination and independence as possible; and

(B) the prevention or deceleration of regression or loss of current optimal functional status. Specialized services do not include services to maintain generally independent residents who are able to function with little supervision or in the absence of a continuous specialized services program.

(31) Substantial risk of serious harm to self and/or others--Harm which may be demonstrated either by a person's behavior or by evidence of severe emotional distress and deterioration in his mental condition to the extent that the person cannot remain at liberty, as determined by a court of law.

(32) Terminal illness--As defined for hospice purposes in 42 Code of Federal Regulations §418.3 in the definition of terminally ill.

(33) Ventilator dependent--Reliance upon a respirator or respiratory ventilator as a life support system to assist with breathing.

(b) Preadmission screenings.

(1) Purpose. All new admissions (private pay, Medicare beneficiaries, and Medicaid recipients) must be screened prior to admission to a nursing facility to determine if:

(A) the individual has mental illness (MI), mental retardation (MR), and/or a related condition (RC);

(B) the individual needs nursing facility services, as defined by medical necessity; and

(C) the individual requires specialized services.

(2) Readmissions. The following individuals are not subject to preadmission screenings:

(A) readmissions following hospitalizations;

(B) individuals who:

(i) are admitted to the nursing facility directly from a hospital after receiving acute inpatient care at the hospital;

(ii) require nursing facility services for the condition for which the individual received care in the hospital; and

(iii) have been certified by their attending physician prior to admission to the nursing facility that they are likely to require less than 30 days of nursing facility services;

(C) individuals who have a terminal illness as defined for hospice purposes in 42 Code of Federal Regulations §418.3, in the definition of terminally ill; and

(D) residents who:

(i) transfer from their current nursing facility residence to a new nursing facility residence;

(ii) have not had any interruption in continuous nursing facility residence other than for acute care hospitalization; and

(iii) have not had any change in their mental condition. For residents who transfer from one nursing facility to another, the transferring nursing facility is responsible for ensuring copies of the most recent PASARR assessment accompany the transferring resident.

(3) Level I Identification Screening. Individuals who are suspected of having mental illness, mental retardation, or a related condition (MI/MR/RC) are identified through the medical necessity screening process.

(A) Medical staff document for the presence of MI if the individual meets the following criteria:

(i) has a diagnosis of MI (excluding a primary diagnosis of Alzheimer's disease or dementia);

(ii) has a level of impairment that results in functional limitations in major life activities within the past three to six months in the areas of interpersonal functioning, concentration, persistence, pace and/or adaptation to change; and

(iii) within the last two years, due to the mental disorder, has had psychiatric treatment more intensive than outpatient care more than once and/or experienced an episode of significant disruption to the normal living situation, for which supportive services were required to maintain functioning at home, or in a residential treatment environment, or which resulted in intervention by housing or law enforcement officials.

(B) Medical staff document for the presence of MR and/or RC if the individual:

(i) has a diagnosis of MR and/or RC;

(ii) has any history of MR and/or RC identified in the past; or

(iii) presents any evidence (cognitive or behavioral functioning) that may indicate the presence of MR and/or a RC.

(C) Identification of MI, MR, or RC requires that an individual receive a Level II assessment prior to admission to a nursing facility.

(D) An individual, who has medical necessity, may be immediately admitted to or continue residing in a nursing facility if:

(i) MI, MR, or RC was substantiated in writing;

(ii) an individual is in the nursing facility for convalescent care;

(iii) an individual is comatose, functioning at the brain stem level, ventilator dependent, terminally ill, or has a serious medical condition such as chronic obstructive pulmonary disease, anencephaly, Parkinson's disease, Huntington's disease, amyotrophic lateral sclerosis, and congestive heart failure which result in an impairment so severe that the individual could not be expected to benefit from specialized services;

(iv) an individual has a primary diagnosis of dementia and is not MR and/or RC;

[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
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(v) an individual has Alzheimer's disease and no other diagnosis of MR and/or RC;

(vi) an individual is determined by DADS or its designee during the Level II Assessment process not to have MI/MR/RC.

(4) Level II--PASARR assessment. DADS or its designee assesses the need for nursing facility and specialized services.

(A) The assessment process consists of a:

(i) PASARR preadmission assessment; and

(ii) Level II--PASARR assessment.

(B) Depending on the mental and/or physical condition, an assessment is conducted by one or more of the following:

(i) a registered nurse who is a qualified mental health professional;

(ii) a registered nurse who is a qualified mental retardation professional; and

(iii) a psychologist who is a qualified mental retardation professional with at least a Master's degree; and

(iv) other qualified mental health professionals.

(C) It is the responsibility of the nursing facility to submit the required PASARR assessment to DADS or its designee and request screening of any resident suspected of having MI, MR, or RC.

(c) Change in condition.

(1) The nursing facility will promptly notify DADS or its designee after a significant change in the physical or mental condition of a resident that relates to the MI, MR, or RC diagnosis.

(2) DADS or its designee conducts a review, as described in subsection (b)(4) of this section, and makes a determination, as described in subsection (d) of this section.

(3) DADS or its designee must evaluate and contact the attending physician when there is a question regarding

a resident's capacity to understand and meaningfully participate in the decisions regarding his eligibility to remain in the nursing facility, be alternately placed, receive specialized services, and/or initiate appeals.

(A) A surrogate decision maker will be assigned by the attending physician if there is a question regarding capacity and the resident meets the criteria in the Consent to Medical Treatment Act, Health and Safety Code, Chapter 313, as referenced in §19.420(a)(3) of this chapter (relating to Documentation for the Delegation of Long-Term Care Resident's Rights).

(B) A resident will be referred to probate or county court for the assignment of a legal guardian if:

(i) no surrogate decision maker is available; or

(ii) there is a question regarding capacity, but the resident does not meet the criteria for a surrogate decision maker under §19.420(a)(3) of this chapter.

(d) Determination process.

(1) The assessment data is analyzed by a qualified mental health and/or mental retardation professional in order to determine whether:

(A) Nursing facility services are needed, as described in §19.2401 of this chapter (relating to General Qualifications for Medical Necessity Determinations).

(B) An individual requires specialized services for mental illness. The presence of verbalizations or behaviors which indicate a person may pose a substantial risk of serious harm to self or others is evidence that the person requires specialized services.

(C) An individual requires specialized services for mental retardation or a related condition. A response by a person to the environment is evidence that the person requires specialized services.

(2) One of the following determinations is made:

(A) Nursing facility services are needed, but specialized services are not needed. Those individuals may be admitted to or continue residing in a nursing facility.

(B) Nursing facility services are needed and specialized services are needed. Those individuals may be admitted to or continue residing in a nursing facility and receive specialized services within the facility.

(C) Nursing facility services are not needed but specialized services are needed. Those individuals may not be admitted to or continue residing in a nursing facility except as described in paragraph (3) of this subsection. Those individuals who are current nursing facility residents must be alternately placed as described in subsection (e) of this section.

(D) Nursing facility services are not needed and specialized services are not needed. Those individuals may not be admitted to or continue residing in a nursing facility. Those individuals who are current nursing facility residents must be alternately placed, according to discharge procedures stated under §19.502 of this chapter (relating to Transfer and Discharge in Medicaid-certified Facilities).

(3) If a nursing facility resident has 30 or more months of continuous residence in a nursing facility preceding the PASARR determination, the resident may choose to remain and receive specialized services in the nursing facility, or seek alternate placement.

(4) If during the determination process DADS or its designee ascertains that a person does not have MI/MR/RC, the PASARR determination process is discontinued and the individual may be admitted to the nursing facility.

(5) DADS or its designee notifies all individuals and their legal representative or surrogate decision maker (SDM) of the results of their PASARR determination through a letter sent to them, the nursing facility administrator, the attending physician, the local mental retardation authority (MRA) or local mental health authority (MHA) as applicable, the Office of the State Long-Term Care Ombudsman, and Texas Health and Human Services Commission (HHSC) Medicaid eligibility staff. Individuals who have undergone a preadmission screening or change in condition are notified within 10 calendar days of the determination.

(6) Any individual, or his legal representative or responsible party or SDM, not in agreement with the PASARR determination may file an appeal with HHSC to receive a fair hearing according to 1 TAC Chapter 357.

(A) If the hearing officer reverses DADS' or its designee's determination regarding nursing facility admission, the individual seeking entry into the nursing facility may be admitted immediately; and as long as the individual meets all other eligibility requirements, the facility may receive vendor payments. Current residents who have met all eligibility criteria may continue to reside in the facility and receive Medicaid reimbursement retroactive to the date when medical and financial eligibility were in effect.

(B) If the hearing officer sustains DADS' or its designee's determination regarding nursing facility admission, the individual seeking entry into the nursing facility may not enter the facility and may not be Medicaid-certified for nursing facility placement. Current residents who have met all eligibility criteria may be alternately placed.

(e) Specialized services and alternate placement.

(1) DADS requests the local MRA to provide service coordination, case management, specialized services, and alternate placement services for persons with mental retardation determined by DADS or its designee to require specialized services and/or request alternate placement. The Department of State Health Services requests the local MHA to provide service coordination, case management, specialized services, and alternate placement services for persons with mental illness determined to require specialized services, alternate placement, or both.

(2) A service coordinator must be assigned for those residents who require specialized services and/or request alternate placement.

(3) DADS provides specialized rehabilitative services, as stated under §19.1303(a) of this chapter (relating to Specialized Services in Medicaid-certified Facilities).

(4) An interdisciplinary team is constituted by the physician, mental health/mental retardation professional, Director of Nurses, or other professionals as appropriate, the resident and legal representative, responsible party or SDM to develop a plan for specialized services and/or alternate placement. This team will identify those

additional services required for specialized services that are not already being provided by the nursing facility and covered in the nursing facility daily vendor rate.

(5) The service coordinator must provide a monthly written report to the primary or attending physician and to the nursing facility regarding the delivery of specialized services and alternate placement activities. The report will be retained in the resident's clinical record.

(6) The nursing facility must allow Office of the State Long-Term Care Ombudsman staff or representatives from Advocacy, Inc., to counsel and inform affected residents of their rights and options under PASARR.

(7) Specialized services and nursing facility services must be coordinated and integrated for maximum benefit to the resident. A nursing facility must allow for the MRA or MHA, as applicable, or a subcontracted provider to provide specialized services within the facility. If a nursing facility accepts individuals or has individuals who require specialized services for their mental condition, it must establish and maintain a written cooperative agreement with the local MRA or MHA that includes:

(A) general responsibilities of the facility and the provider for delivering the appropriate and mutually supportive services to those residents requiring specialized services for their MI/MR/RC;

(B) a provision allowing the MRA staff or MHA staff to access the resident's clinical record and assessment information to avoid unnecessary duplication of services, with appropriate consent of the eligible resident, legal representative, responsible party or SDM;

(C) a provision allowing the MRA staff or MHA staff an opportunity to participate in or provide information for the facility's admission, programmatic, and discharge-planning meetings when the specialized services needs of an eligible resident are being considered; and

(D) a provision allowing the nursing facility staff to participate in or provide information to the service coordinator during each resident's specialized services planning.

(8) The service coordinator must provide and the nursing facility must maintain, as a separate document in the resident's record, a copy of the original Individual Specialized Services Plan developed by the interdisciplinary team, and any subsequent changes.

(9) The service coordinator must provide to the facility and the facility must document in the comprehensive care plan the following information from the specialized services plan, the designated provider, the service coordinator, other written report, and documented telephone contacts:

(A) efforts to resolve the differences between the specialized services plan and the comprehensive care plan;

(B) specialized services objectives;

(C) the resident's adjustment to the specialized services program; and

(D) changes and modification to the plan.

(10) The facility must ensure that all residents who may benefit from specialized services are identified.

(11) If a resident requires specialized rehabilitation services, the facility must cooperate in obtaining the screening or evaluation.

(12) For those residents who have been determined to be appropriately placed in a nursing facility and to need specialized services and who desire alternate placement, the following alternate placement activities occur:

(A) The MRA or MHA, as applicable, shall locate alternate placement in consultation with the resident or his legal representative.

(B) The resident, his legal representative, or SDM must approve the alternate placement.

(C) If the resident, the legal representative, or SDM refuse all alternate placement options, the resident may remain in the nursing facility and receive specialized services there until an acceptable option is found.

(13) For those residents who have been determined to not need nursing facility services and to need specialized services and who have 30 continuous months of nursing facility residence, a choice will be offered to either seek alternate placement or remain in the nursing facility. If the resident, legal representative, or SDM chooses alternate placement, the following alternate placement activities occur:

(A) The MRA or MHA, as applicable, shall locate alternate placement in consultation with the resident, his legal representative, or SDM.

(B) The resident, his legal representative, or SDM must approve the alternate placement.

(C) Until the resident, his legal representative, or SDM approves an alternate placement, the resident may remain in the nursing facility and receive specialized services.

(14) For those residents determined not to need nursing facility services and to need specialized services but who do not have 30 months continuous residence, the resident will be discharged according to procedures stated under §19.502 of this chapter.

(f) Limitations on provider charges. Nursing facilities that admit or retain residents with a diagnosis of mental illness, mental retardation, or a related condition who have not been screened by DADS or its designee or that admit or retain residents who do not need nursing facility services and who require specialized services will not be reimbursed for that resident, as described in §19.2608 of this chapter (relating to Limitations on Provider Charges).

(g) Discharge planning. Nursing facilities must provide discharge planning services to all residents who are to be alternately placed as described in this section and provide residents those rights described in §19.502 of this chapter.

Source Note: The provisions of this §19.2500 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective December 7, 1995, 20 TexReg 9900; amended to be effective August 1, 1997, 22 TexReg 6871; amended to be effective August 1, 2000, 25 TexReg 6779; amended to be effective September 3, 2008, 33 TexReg 7264

List of Titles

Back to List

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