



2022

LONG-TERM CARE VISITATION IN THE STATE OF TEXAS

TEXAS CONSTITUTIONAL AMENDMENT
ADOPTED 11/2/2021

TEXAS ESSENTIAL CAREGIVER STATUTE
EFFECTIVE 9/1/2021

TEXAS HEALTH AND HUMAN SERVICES
COMMISSION EXPANSION OF REOPENING
VISITATION EMERGENCY RULES

CENTERS FOR MEDICAID AND MEDICARE
SERVICES (CMS) GUIDANCE



WHO CAN ENTER THE FACILITY?

**A TEXAS CAREGIVERS FOR
COMPROMISE PUBLICATION**

January, 2022

LONG-TERM CARE VISITATION IN THE STATE OF TEXAS



WHO CAN ENTER THE FACILITY?

Long-term care facilities are facing complex issues related to the spread of infectious diseases that include everything from enhanced barrier precautions, supply issues, and staff shortages to new rules related to reporting, mitigation and response, and visitation.

Families have been vocal advocates for visitation rights since March, 2020, and are increasingly educated regarding the rules and guidelines even as those rules frequently change and evolve. That means families are more willing now than in the past to make official complaints when visitation is denied in non-compliance with those visitation rules and visitation guidelines.

Accurate information and staying current are both key to avoiding misunderstandings and misinformation. It is very important that both providers and families make use of the information, resources, and webinars available on the Texas Health and Human Services portals and stay current on rules, guidance, reporting requirements, provider letters, trends, program details, therapeutics, source control, vaccines, and who to contact with questions and problems.

EXACT BILL LANGUAGE HERE:
TEXAS LEGISLATURE ONLINE -
[HTTPS://CAPITOL.TEXAS.GOV/BILLLO
OKUP/TEXT.ASPX?
LEGSESS=87R&BILL=SB25](https://capitol.texas.gov/billlookup.asp?legsess=87R&bill=sb25)



Essential Caregivers

SB-25 TOOK EFFECT SEPT 1, 2021

**"ESSENTIAL CAREGIVER" IS DEFINED BY TEXAS
STATE LAW AS A FAMILY MEMBER, FRIEND,
GUARDIAN, OR OTHER INDIVIDUAL SELECTED BY
A RESIDENT, RESIDENT'S GUARDIAN, OR
RESIDENT'S LEGALLY AUTHORIZED
REPRESENTATIVE FOR IN-PERSON VISITS.**

1

A resident, resident's guardian, or resident's legally authorized representative has the right to designate an essential caregiver with whom the facility or program provider may not prohibit in-person visitation.

2

HHSC develops guidelines to assist facilities in establishing essential caregiver visitation policies and procedures.

3

Safety protocols for an essential caregiver cannot be more stringent than safety protocols for the staff of the facility.

4

Facilities must allow the essential caregiver to visit the resident for at least two hours each day.

5

Facilities must enable physical contact between the resident and essential caregiver

6

A facility may revoke an individual's designation as an essential caregiver if the caregiver violates the facility's safety protocols. An essential caregiver may appeal the revocation to HHSC.

7

A facility or program provider may petition HHSC to suspend in-person essential caregiver visits for not more than seven days if in-person visitation poses a serious community health risk.

EXACT LANGUAGE HERE:
TEXAS LEGISLATURE ONLINE -
[HTTPS://CAPITOL.TEXAS.GOV/BILL/](https://capitol.texas.gov/bill/lookup/text.aspx?legsess=87R&bill=sjr19)
OKUP/TEXT.ASPX?
LEGSESS=87R&BILL=SJR19



Essential Caregivers

1

A resident of a nursing facility, assisted living facility, intermediate care facility for individuals with an intellectual disability, residence providing home and community-based services, or state supported living center, as those terms are defined by general law, has the right to designate an essential caregiver with whom the facility, residence, or center may not prohibit in-person visitation.

2

The legislature by general law may provide guidelines for a facility, residence, or center in establishing essential caregiver visitation policies and procedures.

3

Part 2 is fulfilled by SB-25 which designates Texas HHSC to establish essential caregiver guidelines which carry the full weight of the law and of the constitutional amendment.

"ESSENTIAL CAREGIVER" IS DEFINED BY TEXAS STATE LAW AS A FAMILY MEMBER, FRIEND, GUARDIAN, OR OTHER INDIVIDUAL SELECTED BY A RESIDENT, RESIDENT'S GUARDIAN, OR RESIDENT'S LEGALLY AUTHORIZED REPRESENTATIVE FOR IN-PERSON VISITS.

**SJR-19 WAS PUT BEFORE
VOTERS OF THE STATE OF
TEXAS AS PROPOSITION 6 AND
APPROVED ON NOV 2, 2021**

Notes

NURSING FACILITIES

**THE NOV 28, 2021 REVISED
COVID-19 EXPANSION
VISITATION RULE REQUIRES
CERTIFIED AND LICENSED ONLY
NF'S TO FOLLOW CMS GUIDANCE
REGARDING VISITATION DURING
THE COVID-19 PUBLIC HEALTH
EMERGENCY.**

**ALL NURSING FACILITIES IN THE
STATE OF TEXAS MUST ADMIT
ESSENTIAL CAREGIVERS UNDER
THE PROVISIONS SET FORTH IN
CHAPTER 260B, SUBTITLE B,
TITLE 4, HEALTH AND SAFETY
CODE AND ARTICLE 1, SECTION
35 OF THE CONSTITUTION OF
THE STATE OF TEXAS**

**ESSENTIAL CAREGIVER VISITS
CANNOT BE PAUSED WITHOUT
PRIOR APPROVAL FROM TEXAS
HEALTH AND HUMAN SERVICES**

NF



HHSC NF PORTAL QR CODE



- **NF COVID-19 EXPANSION
OF REOPENING
VISITATION EMERGENCY
RULE (PDF)**



- **NF COVID-19 RESPONSE
PLAN (PDF)**



- **FREQUENTLY ASKED
QUESTIONS FOR NFS
ABOUT COVID-19 (PDF)**



- **SIGN UP FOR
GOV.DELIVERY ALERTS**

**GOV.DELIVERY ALERTS ARE CRITICAL FOR
BOTH FAMILIES AND PROVIDERS TO STAY
CURRENT ON GUIDELINES, REGULATIONS,
WEBINARS, AND TRAINING OPPORTUNITIES**

Notes

ASSISTED LIVING FACILITIES

**ASSISTED LIVING FACILITIES
MUST COMPLY WITH THE ALF
COVID-19 EXPANSION OF
REOPENING VISITATION RULE**

**ALL ASSISTED LIVING FACILITIES
IN THE STATE OF TEXAS MUST
ALSO ADMIT ESSENTIAL
CAREGIVERS UNDER THE
PROVISIONS SET FORTH IN
CHAPTER 260B, SUBTITLE B,
TITLE 4, HEALTH AND SAFETY
CODE AND ARTICLE 1, SECTION
35 OF THE CONSTITUTION OF
THE STATE OF TEXAS**

**ESSENTIAL CAREGIVER VISITS
CANNOT BE PAUSED WITHOUT
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HEALTH AND HUMAN SERVICES**

ALF



HHSC ALF PORTAL QR CODE



- **ALF COVID-19
EXPANSION OF
REOPENING VISITATION
EMERGENCY RULE (PDF)**



- **ALF COVID-19 RESPONSE
PLAN (PDF)**



- **FREQUENTLY ASKED
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Notes

INTERMEDIATE CARE FACILITIES

**INTERMEDIATE CARE FACILITIES,
INCLUDING STATE SUPPORTED
LIVING FACILITIES, MUST
COMPLY WITH THE ICF/IID
COVID-19 EXPANSION OF
REOPENING VISITATION RULE**

**ALL ICF/IID FACILITIES IN THE
STATE OF TEXAS MUST ALSO
ADMIT ESSENTIAL CAREGIVERS
UNDER THE PROVISIONS SET
FORTH IN CHAPTER 260B,
SUBTITLE B, TITLE 4, HEALTH
AND SAFETY CODE AND ARTICLE
1, SECTION 35 OF THE
CONSTITUTION OF THE STATE OF
TEXAS**

**ESSENTIAL CAREGIVER VISITS
CANNOT BE PAUSED WITHOUT
PRIOR APPROVAL FROM TEXAS
HEALTH AND HUMAN SERVICES**

ICF



HHSC ICF PORTAL QR CODE



- **ICF/IID COVID-19
EXPANSION OF
REOPENING VISITATION
EMERGENCY RULE (PDF)**



- **ICF/IID COVID-19
RESPONSE PLAN (PDF)**



- **FREQUENTLY ASKED
QUESTIONS FOR ICF/IIDS
ABOUT COVID-19 (PDF)**



- **SIGN UP FOR
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CURRENT ON GUIDELINES, REGULATIONS,
WEBINARS, AND TRAINING OPPORTUNITIES**

Notes

WHAT SHOULD A LOVED ONE DO WHEN A FACILITY SAYS GENERAL VISITATION IS NOT ALLOWED?

Listen to their reason and check it against the current emergency visitation guidelines from HHSC and, if applicable, the most recent guidance from CMS. Assisted living facilities are not under the federal oversight of CMS.

Discuss the issue with the facility's administrator and provide a copy of the latest HHSC guidelines and COVID-19 response plan for the facility type. If you are in a nursing facility, you may also need the most recent CMS guidance.

Contact your ombudsman for help communicating with the facility. If you do not know who the ombudsman is for your facility, call 1-800-252-2412.

Ask the facility to please not make you file a complaint by failing to accommodate your loved one's right to visitation.

File a complaint with HHS complaint and incident intake by calling 1-800-458-9858.

Keep notes of who you speak with at the facility and HHSC and of intake numbers for follow-up later.

WHAT SHOULD A LOVED ONE DO WHEN A FACILITY SAYS ESSENTIAL CAREGIVER VISITS ARE NOT ALLOWED?

Ask if the facility has petitioned and received approval from HHSC under SB25 to pause essential caregiver visits. If so, ask to see verification of that approval.

Discuss the issue with the facility's administrator and provide a copy of SB25, of Proposition 6, of the latest HHSC guidelines, and COVID-19 response plan for the facility type. QR codes for these documents are located in this booklet. If you are in a nursing facility, you may also need the most recent CMS guidance.

Contact your ombudsman for help communicating the essential caregiver rules and statutory requirements with the facility. Ombudsmen are resident advocates who help with complaint resolution. If you do not know who your ombudsman is, call 1-800-252-2412.

Ask the facility to please not make you file a complaint by failing to accommodate your loved one's right to an in-person visit with you as their essential caregiver.

File a complaint with HHS complaint and incident intake by calling 1-800-458-9858

Keep notes of who you speak with at the facility and HHSC and of intake numbers for follow-up later.

1

2

3

4

5

6

My Long-term Care Phone Numbers

Important Contact Info

OFFICE OF THE LONG-TERM CARE OMBUDSMAN

NURSING FACILITIES AND ASSISTED LIVING FACILITIES

1-800-252-2412

LTC.OMBUDSMAN@HHSC.STATE.TX.US

[HTTPS://APPS.HHS.TEXAS.GOV/NEWS_INFO/OMBUDSMAN/](https://apps.hhs.texas.gov/news_info/ombudsman/)

OFFICE OF THE INDEPENDENT OMBUDSMAN

FOR STATE SUPPORTED LIVING CENTERS

877-323-6466

[HTTPS://SSLC-INDEPENDENT-OMBUDSMAN.TEXAS.GOV/](https://sslc-independent-ombudsman.texas.gov/)

SSLC.OMBUDSMAN@HHS.TEXAS.GOV

TEXAS HEALTH AND HUMAN SERVICES (HHS)

COMPLAINT AND INCIDENT INTAKE

1-800-458-9858

IF YOU ARE DEAF, HARD OF HEARING, OR SPEECH IMPAIRED

YOU CAN CALL ANY TEXAS HEALTH AND HUMAN SERVICES OFFICE BY USING THE RELAY SERVICE OF YOUR CHOICE. THE STATE OF TEXAS OFFERS RELAY TEXAS WHICH YOU CAN USE BY DIALING 7-1-1 OR 800-735-2989.