

EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 417. AGENCY AND FACILITY RESPONSIBILITIES

SUBCHAPTER A. STANDARD OPERATING PROCEDURES

25 TAC §417.47

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 25 Texas Administrative Code, Chapter 417, Agency and Facility Responsibilities, amended §417.47, concerning an emergency rule in response to COVID-19 to ensure necessary state hospital staffing levels and infection control training during the COVID-19 pandemic. As authorized by Texas Government Code §2001.034, the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this standard operating procedures.

To protect individuals served by the state hospitals and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC previously adopted emergency rules concerning staff training in order to efficiently and effectively deploy staff to meet basic needs during the COVID-19 pandemic, without posing risk to the individuals served. As the COVID-19 pandemic and the Governor's proclamation of disaster have continued, so has the need for training requirements that ensure adequate training and staffing levels at state hospitals. This emergency rule updates those training requirements to require training of infection control specific to COVID-19, including pre-

vention, screening, isolation, and the use of personal protective equipment.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Texas Health and Safety Code §552.052. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §552.052 authorizes the Executive Commissioner of HHSC to adopt rules governing training of state hospital employees.

The amended section implements Texas Government Code §531.0055 and Texas Health and Safety Code Chapter 552.

§417.47. Training Requirements for State Mental Health Facilities.

(a) All State Hospital Employees. As required by Texas Health and Safety Code, §552.052(b), before performing the employee's duties without direct supervision, all state mental health facility (SMHF) staff members shall receive competency training and instruction on general duties. Training shall include the prevention, screening, isolation, and use of personal protective equipment related to COVID-19. Due to the COVID-19 pandemic declared disaster, the competency training, instruction, and evaluation may be modified and expedited to ensure the employee has achieved competency essential to perform the employee's duties.

(b) Direct Care Employees. Before an employee who provides direct delivery of services to a patient begins to perform direct care duties without direct supervision, a SMHF staff member shall receive training and instruction, in addition to the training outlined in subsection (a) of this section, on implementation of the interdisciplinary treatment program for each patient, a person admitted to a state hospital under the management and control of the department, for whom they will provide care.

(c) Specialized Training. Direct care employees shall receive additional training and instructional information in accordance with the specialized needs of the population being served, including services on units for individuals with intellectual disabilities, medical impairments, or geriatric patients within a reasonable period of time after the staff member begins employment.

(d) All SMHF staff members shall receive annual refresher training on the topics outlined in subsection (a) of this section throughout the staff member's employment or association with the SMHF, unless the department determines in good faith and with good reason a particular employee's performance will not be adversely affected in the absence of such refresher training or due to the COVID-19 pandemic declared disaster.

(e) Direct Care Employees whose duties require delivery of services to a patient shall receive annual refresher training on the topics outlined in subsections (a) and (b) of this section throughout the staff member's employment or association with the SMHF, unless the department determines in good faith and with good reason a particular employee's performance will not be adversely affected in the absence of such refresher training or due to the COVID-19 pandemic declared disaster.

(f) Direct Care Employees whose duties require delivery of services on units for individuals with intellectual disabilities, medical impairments, or geriatric patients shall receive annual refresher training on the topics outlined in subsections (a), (b), and (c) of this section, throughout the staff member's employment or association with the SMHF, unless the department determines in good faith and with good reason a particular employee's performance will not be adversely affected in the absence of such refresher training or due to the COVID-19 pandemic declared disaster.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

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TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 500. COVID-19 EMERGENCY HEALTH CARE FACILITY LICENSING

SUBCHAPTER A. HOSPITALS

26 TAC §500.3

The Health and Human Services Commission is renewing the effectiveness of emergency new §500.3 for a 60-day period. The text of the emergency rule was originally published in the October 30, 2020, issue of the *Texas Register* (45 TexReg 7659).

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SUBCHAPTER D. CHEMICAL DEPENDENCY TREATMENT FACILITIES

26 TAC §§500.41 - 500.44

The Health and Human Services Commission is renewing the effectiveness of emergency new §§500.41 - 500.44 for a 60-day period. The text of the emergency rule was originally published in the October 30, 2020, issue of the *Texas Register* (45 TexReg 7660).

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SUBCHAPTER E. LICENSED CHEMICAL DEPENDENCY COUNSELORS

26 TAC §500.51

The Health and Human Services Commission is renewing the effectiveness of emergency new §500.51 for a 60-day period. The text of the emergency rule was originally published in the October 30, 2020, issue of the *Texas Register* (45 TexReg 7662).

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CHAPTER 551. INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY OR RELATED CONDITIONS

SUBCHAPTER C. STANDARDS FOR LICENSURE

26 TAC §551.46

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26, Part 1, Texas Administrative Code, Chapter 551, Subchapter C, new §551.46, concerning an emergency rule to mitigate and contain COVID-19 in an intermediate care facility for individuals with an intellectual disability (ICF/IID) or related condition. As authorized by Texas Government Code §2001.034,

the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of this emergency rulemaking is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this emergency rule for ICF/IID Provider Response to COVID-19 - Mitigation.

To protect individuals receiving ICF/IID services and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to mitigate and contain COVID-19. The purpose of the new rule is to describe requirements for ICF/IID Provider Response to COVID-19.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Texas Health and Safety Code §§252.031 - 252.033 and §242.043. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §§252.031 - 252.033 require the Executive Commissioner of HHSC to establish rules prescribing the minimum standards and process for licensure as an intermediate care facility. Texas Health and Safety Code §252.043 establishes HHSC's authority to conduct an inspection, survey, or investigation at an intermediate care facility to determine if the intermediate care facility is in compliance with the minimum acceptable levels of care for individuals who are living in an intermediate care facility, and the minimum acceptable life safety code and physical environment requirements.

The new rule implements Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

§551.46. ICF/IID Provider Response to COVID-19 - Mitigation.

(a) The following words and terms, when used in this section, have the following meanings.

(1) Cohort--A group of individuals placed in rooms, halls, or sections of an intermediate care facility with others who have the same COVID-19 status or the act of grouping individuals with other individuals who have the same COVID-19 status.

(2) COVID-19 negative--A person who has tested negative for COVID-19, is not exhibiting symptoms of COVID-19, and has had no known exposure to the virus since the negative test.

(3) COVID-19 positive--A person who has tested positive for COVID-19 and does not yet meet Centers for Disease Control and

Prevention (CDC) guidance for the discontinuation of transmission-based precautions.

(4) COVID-19 status--The status of a person based on COVID-19 test results, symptoms, or other factors that consider the person's potential for having the virus.

(5) Individual--A person enrolled in the ICF/IID Program.

(6) Isolation--The separation of people who are COVID-19 positive from those who are COVID-19 negative and those whose COVID-19 status is unknown.

(7) PPE--Personal protective equipment means specialized clothing or equipment worn by intermediate care facility staff for protection against transmission of infectious diseases such as COVID-19, including masks, goggles, face shields, gloves, and disposable gowns.

(8) Quarantine--The separation of people with unknown COVID-19 status from those who are COVID-19 positive and those who are COVID-19 negative.

(9) Unknown COVID-19 status--A person who is a new admission, readmission, or has spent one or more nights away from the facility, has had known exposure or close contact with a person who is COVID-19 positive, or who is exhibiting symptoms of COVID-19 while awaiting test results.

(b) An intermediate care facility must have a protocol in place included in their COVID-19 response plan that describes how the facility will transfer a COVID-19 positive individual to another facility capable of isolating and caring for the COVID-19 positive individual, if the facility cannot successfully isolate the individual.

(1) An intermediate care facility must have contracts or agreements with alternative appropriate facilities to ensure care for COVID-19 positive individuals.

(2) An intermediate care facility must assist the individual and family members as needed to transfer the individual to the alternate facility.

(c) An intermediate care facility must have a COVID-19 response plan that includes:

(1) Designated space for:

(A) COVID-19 negative individuals;

(B) Individuals with unknown COVID-19 status; and

(C) COVID-19 positive individuals, when the facility is able to care for an individual at this level or until arrangements can be made to transfer the individual to a higher level of care.

(2) Spaces for staff to don and doff PPE that minimize the movement of staff through other areas of the facility.

(3) Individual transport protocols.

(4) Plans for obtaining and maintaining a two-week supply of PPE, including surgical facemasks, gowns, gloves, and goggles or face shields.

(5) If the facility houses COVID-19 positive individuals, an individual recovery plan for continuing care after an individual is recovering from COVID-19 as per CDC guidelines on recovery.

(d) An intermediate care facility must screen all individuals, staff, and people who come to the facility in accordance with the following criteria:

(1) fever, defined as a temperature of 100.4 Fahrenheit and above, or signs or symptoms of a respiratory infection, such as cough, shortness of breath, or sore throat;

(2) other signs or symptoms of COVID-19, including chills, new or worsening cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea;

(3) any other signs and symptoms as outlined by the CDC in Symptoms or Coronavirus at cdc.gov; and

(4) contact in the last 14 days with someone who has a confirmed diagnosis of COVID-19, is under investigation for COVID-19, or is ill with a respiratory illness, unless the person is entering the facility to provide critical assistance.

(e) An intermediate care facility must screen individuals according to the following timeframes:

(1) for the criteria in subsection (d) of this section, upon admission or readmission to the facility; and

(2) for the criteria in subsection (d)(1)-(3) of this section, at least twice a day.

(f) An intermediate care facility must screen each employee or contractor for the criteria in subsection (d) of this section before entering the facility at the start of their shift. Staff screenings must be documented in a log kept at the facility entrance, and must include the name of each person screened, the date and time of the evaluation, and the results of the evaluation. Staff who meet any of the criteria must not be permitted to enter the facility and must be sent home.

(g) An intermediate care facility must assign each individual to the appropriate cohort based on the individual's COVID-19 status.

(h) An individual with unknown COVID-19 status must be quarantined and monitored for fever and other symptoms of COVID-19 per CDC guidance.

(i) A COVID-19 positive individual must be isolated until the individual meets CDC guidelines for the discontinuation of transmission-based precautions, if cared for in the facility.

(j) If a COVID-19 positive individual must be transferred for a higher level of care, the facility must isolate the individual until the individual can be transferred.

(k) An intermediate care facility must implement a staffing policy requiring the following:

(1) the facility must designate staff to work with each cohort and not change designation from one day to another, unless required in order to maintain adequate staffing for a cohort;

(2) staff must wear appropriate PPE based on the cohort with which they work;

(3) staff must inform to the facility per facility policy prior to reporting for work if they have known exposure or symptoms;

(4) staff must perform self-monitoring on days they do not work; and

(5) the facility must develop and implement a policy regarding staff working with other long-term care (LTC) providers that:

(A) limits the sharing of staff with other LTC providers and facilities, unless required in order to maintain adequate staffing at a facility;

(B) maintains a list of staff who work for other LTC providers or facilities that includes the names and addresses of the other employers;

(C) requires all staff to inform the facility immediately if there are COVID-19 positive cases at the staff's other place of employment;

(D) requires the facility to notify the staff's other place of employment if the staff member is diagnosed with COVID-19; and

(E) requires staff to inform the facility which cohort they are assigned to at the staff's other place of employment. The facility must maintain the same cohort designation for that employee in all facilities in which the staff member is working, unless required to maintain adequate staffing for a cohort.

(l) All intermediate care facility staff must wear a facemask while in the facility. Staff who are caring for COVID-19 positive individuals and those caring for individuals with unknown COVID-19 status must wear an N95 mask, gown, gloves, and goggles or a face shield. All facemasks and N95 masks must be in good functional condition as described in COVID-19 Response Plan for Intermediate Care Facilities, and must be worn appropriately, completely covering the nose and mouth, at all times.

(1) A facility must comply with CDC guidance on the optimization of PPE when supply limitations require PPE to be reused.

(2) A facility must document all efforts made to obtain PPE, including each organization contacted and the date of each attempt.

(m) COVID-19 activity must be reported to the Texas Health and Human Services Commission (HHSC) Complaint and Incident Intake as described below:

(1) A facility must report the first confirmed case of COVID-19 in staff or individuals, and the first confirmed case of COVID-19 after a facility has been without cases for 14 days or more, to HHSC Complaint and Incident Intake (CII) through TULIP, or by calling 1-800-458-9858, within 24 hours of the positive confirmation.

(2) A facility must submit a Form 3613-A Provider Investigation Report to HHSC Complaint and Incident Intake, through TULIP or by calling 1-800-458-9858, within five days from the day a confirmed case is reported to CII.

(n) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority that is more restrictive than this rule or any minimum standard relating to an intermediate care facility, the intermediate care facility must comply with the executive order or other direction.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER C. STANDARDS FOR LICENSURE

26 TAC §551.47

The Health and Human Services Commission is renewing the effectiveness of emergency new §551.47 for a 60-day period. The text of the emergency rule was originally published in the October 30, 2020, issue of the *Texas Register* (45 TexReg 7663).

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26 TAC §551.48

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26, Part 1, Texas Administrative Code, Chapter 551, Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions, Subchapter C, new §551.48. HHSC is adopting this emergency rule to track vaccinations of staff and residents in intermediate care facilities in Texas in response to COVID-19. As authorized by Texas Government Code, §2001.034, HHSC may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code, §2001.034, may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this emergency rule for ICF/IID Provider COVID-19 Vaccination Data Reporting Requirement.

To protect individuals receiving ICF/IID services and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to require ICF/IIDs to accurately report COVID-19 vaccination data for staff and residents in the format established by HHSC within 24 hours of completing or receiving a round of vaccinations. The emergency rule is necessary to accurately track vaccinations of staff and residents in intermediate care facilities in Texas.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code, §2001.034 and §531.0055, and Texas Health and Safety Code §§252.031 - 252.033 and 242.043. Texas Government Code, §2001.034, authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code, §531.0055, authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §§252.031 - 252.033 require the Executive Commissioner of HHSC to establish rules prescribing the minimum standards and process for licensure as an intermediate care facility. Texas Health and Safety Code §252.043 establishes HHSC's authority to conduct an inspection, survey or investigation at an intermediate care facility to determine if the intermediate care facility is in compliance with the minimum acceptable levels of care for individuals who are living in an intermediate care facility, and the minimum acceptable life safety code and physical environment requirements.

The new rule implements Texas Government Code §531.0055 and §531.021 and Texas Health and Safety Code Chapter 252.

§551.48. ICF/IID Provider COVID-19 Vaccination Data Reporting Requirement.

(a) An intermediate care facility must accurately report COVID-19 vaccination data for staff and individuals in the format established by the Texas Health and Human Services Commission.

(b) This rule does not apply to state supported living centers.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

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CHAPTER 553. LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES SUBCHAPTER K. COVID-19 EMERGENCY RULES

26 TAC §553.2003

The Health and Human Services Commission is renewing the effectiveness of emergency new §553.2003 for a 60-day period. The text of the emergency rule was originally published in the October 30, 2020, issue of the *Texas Register* (45 TexReg 7668).

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 3. RESPONSIBILITIES OF STATE FACILITIES

SUBCHAPTER D. TRAINING

40 TAC §§3.401 - 3.403

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 40 Texas Administrative Code, Chapter 3, Responsibilities of State Facilities, amended §3.401 - §3.403, concerning emergency rules in response to COVID-19 to ensure necessary state supported living center staffing levels and infection control during the COVID-19 pandemic. As authorized by Texas Government Code §2001.034, the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of these training rules.

To protect individuals served by the state supported living centers and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC previously adopted emergency rules concerning staff training to efficiently and effectively deploy staff to meet basic needs during the COVID-19 pandemic, without posing risk to the individuals served. As the COVID-19 pandemic and the Governor's proclamation of disaster have continued, so has the need for training requirements that ensure adequate training and staffing levels at state supported living centers. These emergency rules update training requirements to require training of infection control specific to COVID-19, including prevention, screening, isolation, and the use of personal protective equipment.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Texas Health and Safety Code §555.024. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §555.024 authorizes the Executive Commissioner of HHSC to adopt rules governing training of state supported living center employees.

The amended sections implement Texas Government Code §531.0055 and Texas Health and Safety Code Chapter 555.

§3.401. Training for New Employees.

(a) Before an employee performs employment duties without direct supervision, the employee shall receive competency training and instruction on general duties. Due to the COVID-19 pandemic declared disaster, the competency training, instruction, and evaluation may be modified and expedited to ensure the employee has achieved competency essential to perform the employee's duties [a facility must provide the employee with basic orientation].

(b) The focus of the basic orientation must be on:

(1) the uniqueness of each individual with whom the employee will work;

(2) techniques for improving the quality of life and promoting the integration, independence, person-directed choices, and health and safety of individuals; and

(3) the conduct expected of employees.

(c) The basic orientation must include instruction and information on the following topics:

(1) the general operation and layout of the facility, including armed intruder lockdown procedures;

(2) an introduction to intellectual disabilities;

(3) an introduction to autism;

(4) an introduction to mental illness and dual diagnosis;

(5) the rights of individuals as specified in 40 Texas Administrative Code (TAC) Part 1, Chapter 4, Subchapter C (relating to Rights of Individuals with an Intellectual Disability), including the right to live in the least restrictive setting appropriate to the individual's needs and abilities;

(6) respecting personal choices made by individuals;

(7) the safe and proper use of restraints;

(8) abuse, neglect, and exploitation of individuals;

(9) unusual incidents;

(10) illegal drug use in the workplace;

(11) workplace violence;

(12) sexual harassment in the workplace;

(13) preventing and treating infection, including the prevention, screening, isolation, and use of personal protective equipment related to COVID-19;

(14) responding to emergencies, including information about first aid and cardiopulmonary resuscitation procedures;

(15) the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191); and

(16) the rights of facility employees.

§3.402. *Additional Training for Direct Support Professionals.*

(a) Before a direct support professional performs employment duties without direct supervision, a facility must provide relevant training essential to perform the employee's duties. Direct support professionals will be provided basic instructional information on these statutorily required topics [that covers at least the following topics to the direct support professional]:

(1) implementation and data collection requirements for the individual support plan for each individual with whom the direct support professional will work;

(2) communication styles and strategies for each individual with whom the direct support professional will work;

(3) prevention and management of aggressive or violent behavior;

(4) observing and reporting changes in behavior, appearance, or health of individuals;

(5) positive behavior support;

(6) emergency response;

(7) development of individual support plans;

(8) self-determination;

(9) seizure safety;

(10) working with aging individuals;

(11) assisting individuals with personal hygiene;

(12) physical and nutritional management plans;

(13) home and community-based services, including the principles of community inclusion and participation in the community living options information process; and

(14) procedures for securing evidence following an incident of suspected abuse, neglect, or exploitation.

(b) If training on any of the following topics is relevant to working with a particular individual, a facility must provide that training to the direct support professional before performing duties related to that individual without direct supervision:

(1) using techniques for lifting, positioning, moving and increasing mobility;

(2) assisting individuals with visual, hearing, or communication impairments or who require adaptive devices and specialized equipment;

(3) recognizing appropriate food textures; and

(4) using proper feeding techniques to assist individuals with meals.

§3.403. *Refresher Training.*

(a) A facility must provide training on:

(1) ~~[(a) A facility must provide training on]~~ abuse, neglect, and exploitation to an employee annually;~~[-]~~

(2) ~~[(b) A facility must provide training on]~~ unusual incidents to an employee annually;~~[-]~~

(3) ~~[(c) A facility must provide training on]~~ the rights of individuals as specified in 40 Texas Administrative Code (TAC) Part 1, Chapter 4, Subchapter C (relating to Rights of Individuals with an Intellectual Disability) to a direct care professional annually and to an employee who is not a direct care professional every two years; ~~and[-]~~

(4) ~~[(d) A facility must provide training on]~~ restraints to a direct support professional annually.

(b) During the COVID-19 pandemic declared disaster, trainings required by subsection (a) of this section must be provided at the earliest opportunity.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

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