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HCS Certification Standards

An Overview of Changes

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Your Control Panel



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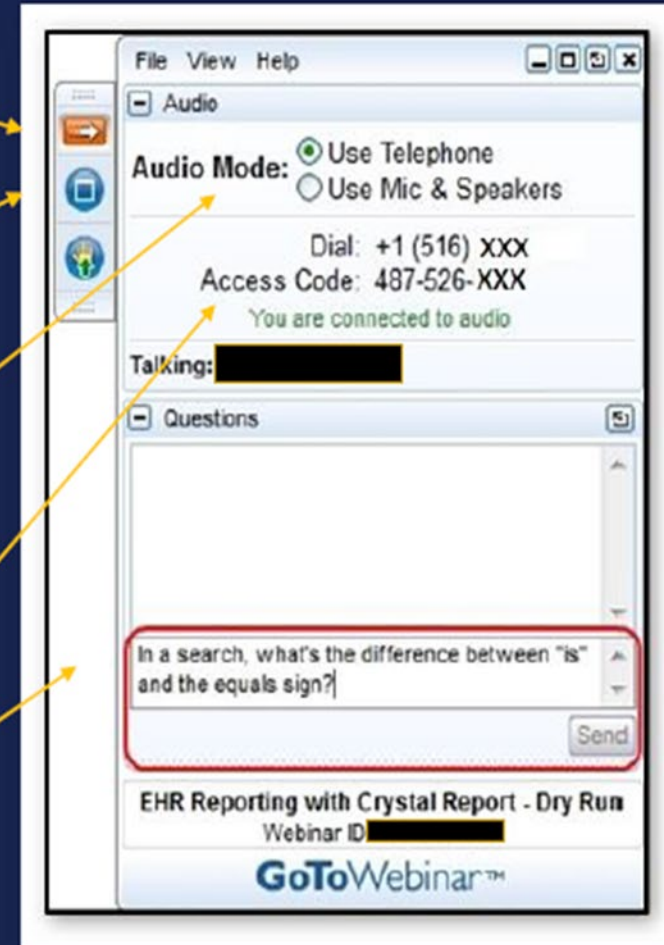
Make panel appear or disappear

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Dial phone number and enter access code

Question box for asking questions or commenting





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Introduction

- New Location
- Updated Definitions
- Reorganization
- Rule Updates



From Principles to Standards

Certification Standard as defined in rule:

A minimum standard for a program provider used by the Texas Health and Human Services Commission (HHSC) during a survey to ensure health and safety of an individual. Violations of a certification principle or standard are subject to administrative penalties.



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Organizational Changes

26 TAC Part 1, Chapter 565

Organizational Structure

- Subchapter A: Emergency Response
- Subchapter B: Overview
- Subchapter C: Rights of the Individual
- Subchapter D: Staff Member and Service Provider Requirements
- Subchapter E: Service Delivery
- Subchapter F: Quality Assurance
- Subchapter G: HHSC Actions



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Organizational Change (cont.)

Subchapter B: Overview

- §565.2: Purpose
- §565.3: Definitions

Subchapter C: Rights of the Individual

- §565.5: Rights

Subchapter D: Staff Member and Service Provider Requirements

- §565.7: Staff Member and Service Provider Requirements
- §565.9 Provider Requirements



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Organizational Change (cont.)

Subchapter E :Service Delivery

- §565.11: Service Delivery
- §565.13: Nursing
- §565.15: Individuals Under the Age of 22
- §565.17: Pre-Enrollment Minor Home Modification
- §565.19: Community First Choice (CFC) Emergency Response Systems (ERS) Services
- §565.21: Transitional Assistance Service (TAS)



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Organizational Change (cont.)

Subchapter F: Quality Assurance

- §565.23: Residential Requirements
- §565.25: Programmatic Requirements
- §565.27: Finances and Rent
- §565.29: Behavior Support Plan
- §565.31: Requirements Related to ANE
- §565.33: Restraints
- §565.35: Enclosed Beds
- §565.37: Protective Devices
- §565.39: Prohibitions



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Organizational Change (cont.)

Subchapter G: HHSC Actions

- §565.41: HHSC Surveys of a Program Provider
- §565.43: HHSC Approval of Four Person Residences
- §565.45: Administrative Penalties
- §565.47: Amelioration
- §565.49: Program Provider Compliance and Corrective Action



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Subchapter C: Rights of the Individual

Prohibitions §565.5(a)



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The program provider cannot prohibit:

- An individual, or the legally authorized representative (LAR) on behalf of the individual, from exercising the same rights and responsibilities exercised by people without disabilities; and
- A LAR or family members from encouraging the individual to exercise the same rights and responsibilities exercised by people without disabilities.

Provider Policy §565.5(b)



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The program provider must develop and implement policies that ensure the individual is informed of his or her rights and can exercise his or her rights without interference, coercion, discrimination, or retaliation from the program provider.

- Protected Rights are listed in §565.5 of the new rules.

Changes to Rights §565.5



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(11) make and receive telephone calls in private.

(13) attend or refuse to attend religious activities.

(22) choose from the same services that are available to all community members, including those without disabilities.

(41) complain to HHSC when the program provider's resolution of a complaint is unsatisfactory to the individual or LAR, and to be informed of the Intellectual and Developmental Disability Ombudsman telephone number to initiate complaints (1-800-252-8154).



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Subchapter D: Staff Member and Service Provider Requirements

Provider Requirements §565.9



The program provider's requirements for hiring and continued employment are in this section, including:

- Background checks and prohibitions to employment
- Employee Misconduct Registry (EMR) checks
- Nurse Aide Registry (NAR) checks
- List of Excluded Individuals and Entities

*In addition, staff members and service providers who transport individuals must have a valid driver's license and insurance.





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Subchapter E: Service Delivery

Service Delivery Changes



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- New organization of service delivery rules
- Day Habilitation replaced with Individualized Skills and Socialization
 - [Individual Skills and Socialization Resource Page](#)
- Program Providers still must provide services to individuals who have chosen to enroll with them.

Service Provision §565.11(a)(1-2)



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The program provider must:

Serve an eligible applicant without regard to age, sex, race, or level of disability.



Communication with the Service Coordinator §565.11(a)(42)(B)



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Upon request by the service coordinator the program provider must provide the service coordinator a legible copy, including an electronic copy, of a document in the record at no charge to the service coordinator.





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Subchapter F: Quality Assurance

Emergency Plan

A written plan that describes the actions that will be taken to protect individuals, including evacuation or sheltering-in-place, in the event of an emergency such as a fire or natural disaster.



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Residential Requirements §565.23



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- Locks §565.23(b)(13)
- Fire Drills §565.23(e)



Host Home Inspections §565.25(b)



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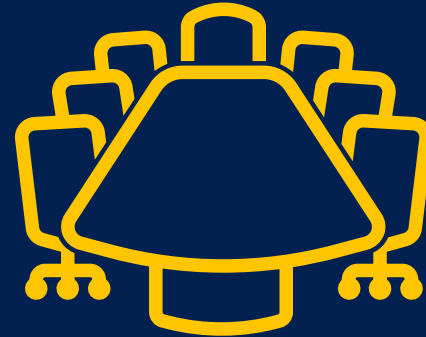
Before providing services to an individual in a residence in which host home/companion care is provided and quarterly thereafter, the program provider must conduct an on-site inspection to ensure that, based on the individual's needs, the environment is safe, accessible, and suited for the individual's abilities and needs, and complies with applicable federal, state, and local regulations for the community in which the individual lives.

Programmatic Requirements §565.25



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- Consumer/Advocate Advisory Committee
- Satisfaction Surveys
- Complaints and Reviews
- Critical Incident Data
- Death Reporting
- Rules Against Retaliation
- Record Requests
- Alternate CEO Designation



Process for Personal Funds §565.27(f)(3)



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- Program Providers are now allowed to develop a process, which may include obtaining a signature, to show the individual acknowledged receiving their funds.
- This gives providers more options with individuals who cannot meaningfully sign their name.



Room and Board §565.27



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When determining the maximum amount for room and board, the provider is now allowed to consider features exclusive to one or two individuals when determining rent. Rule says to “develop a process or formula to divide the rent equitably.” For example, if one individual resides in the primary bedroom with an attached bathroom but does not share the bathroom with the rest of the individuals in the home, then the provider may charge that individual more.

ANE Reporting §565.31



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- Program Providers, staff members, service providers, volunteers, and controlling persons are required to report suspected abuse, neglect, and/or exploitation immediately but no later than one hour after gaining knowledge or suspicion
- DFPS Abuse Hotline: 1-800-647-7418

Restraints §565.33(c)

A program provider must not use restraint in a manner that:

- restricts circulation;
- obstructs the individual's airway, including the placement of anything in, on, or over the individual's mouth or nose;
- impairs the individual's breathing by putting pressure on the individual's torso;
- interferes with the individual's ability to communicate;
- places the individual in a prone or supine position;
- extends muscle groups away from each other;
- uses hyperextension of joints;
- uses pressure points or pain; or
- secures the individual to a stationary object while the individual is in a standing position.



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Protective Device



An item or device, such as a safety vest, lap belt, bed rail, safety padding, adaptation to furniture, or helmet, used only to protect an individual from injury, or for body positioning of the individual to ensure health and safety, and not used to modify or control behavior.

The device or item is considered a protective device only when used in accordance with §565.37 of this chapter (relating to Protective Devices).

Protective Devices §565.37

Only used for medical need

Requires an assessment from a physician, OT, PT, or RN which details:

- The Medical Need
- That less restrictive methods are ineffective
- The type of device to be used
- Circumstances under which the device may be used
- How to use the device
- Proper documentation of device use
- How to monitor device use



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Enclosed Bed



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A protective device that:

- Is commercially produced;
- Includes a 360-degree side enclosure, inclusive of a top cover or canopy; and
- Must be appropriate for the size and weight of the individual.

Enclosed Beds §565.35



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- Enclosed beds may be used if the bed is purchased, obtained, and in compliance by June 19th, 2023.
- An enclosed bed is prohibited if purchased or obtained after June 19, 2023.
 - All enclosed beds will be prohibited after June 19, 2028.
- If a provider allows an enclosed bed, they must:
 - Visually inspect the bed
 - Ensure that they have a current assessment for the enclosed bed
 - Obtain a letter of medical necessity from the prescribing physician or therapist
- Enclosed beds must be commercially produced.

Enclosed Bed Assessments §565.35(c)(2)(A)



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- Completed by a physician, OT or PT has conducted an annual assessment which determines:
 - If there is a medical need for the enclosed bed
 - Under what circumstances the enclosed bed may be used
 - How to use the enclosed bed and any contraindications specific to the individual
 - How to monitor the use of the enclosed bed
- Must be reviewed after any significant change to determine if the individual still has medical needs for the enclosed bed

Enclosed Beds in Provider Policies

§565.35(c)(4)



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- Providers must develop and maintain policies and procedures for the use of enclosed beds that include:
 - Routine checks of the enclosure to ensure it is in good repair and safe for the individual
 - Document quarterly reviews by a RN or professional therapist to ensure the enclosed bed is still safe and necessary for the individual's need
 - Orders being updated at least annually or at any significant change
- There must be a usage plan when an enclosed bed is in use that includes:
 - Details on when the bed will be used
 - Required training for any staff member who provides services on the usage plan
 - The usage plan must be readily available to staff members providing services.



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Subchapter G: HHSC Actions

Types of Surveys §565.41(b)



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- Initial Certification Survey
- Recertification Survey
- Follow-Up Survey
- Residential Survey
- Intermittent Survey

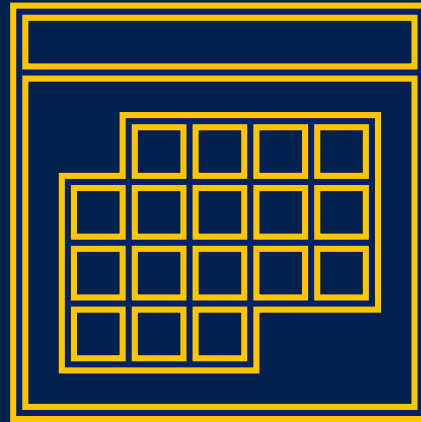


Corrective Actions §565.49

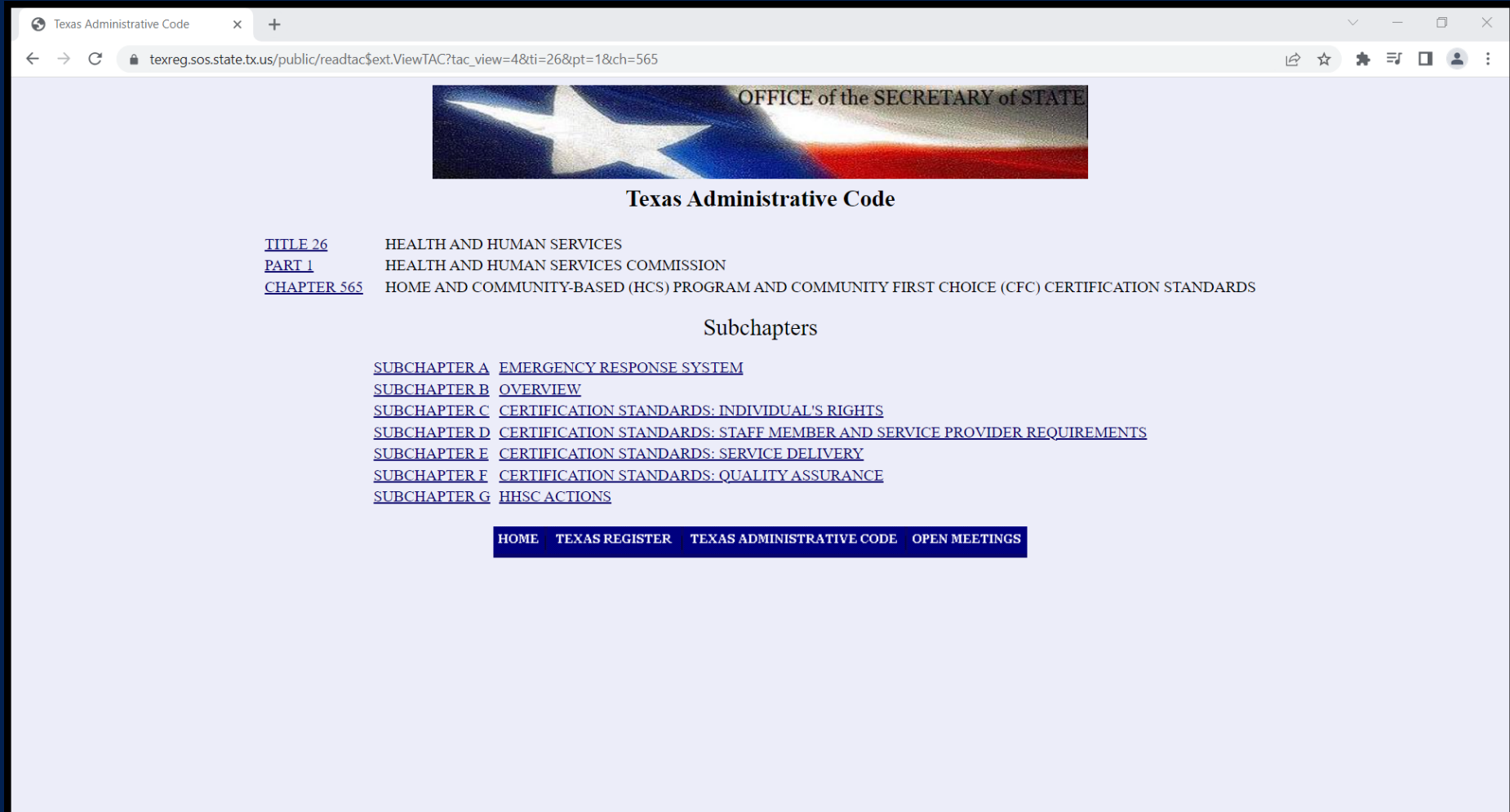


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If HHSC determines from a survey that a program provider is not in compliance, HHSC will send the final survey report within 10 business days.



Searching the TAC

A screenshot of a web browser displaying the Texas Administrative Code website. The browser's address bar shows the URL "texreg.sos.state.tx.us/public/readtac\$ext.ViewTAC?tac_view=4&ti=26&pt=1&ch=565". The page features a header with the Texas state flag and the text "OFFICE of the SECRETARY of STATE" and "Texas Administrative Code". Below the header, there is a list of navigation links: "TITLE 26" (HEALTH AND HUMAN SERVICES), "PART 1" (HEALTH AND HUMAN SERVICES COMMISSION), and "CHAPTER 565" (HOME AND COMMUNITY-BASED (HCS) PROGRAM AND COMMUNITY FIRST CHOICE (CFC) CERTIFICATION STANDARDS). Under "CHAPTER 565", there is a section titled "Subchapters" with links for "SUBCHAPTER A EMERGENCY RESPONSE SYSTEM", "SUBCHAPTER B OVERVIEW", "SUBCHAPTER C CERTIFICATION STANDARDS: INDIVIDUAL'S RIGHTS", "SUBCHAPTER D CERTIFICATION STANDARDS: STAFF MEMBER AND SERVICE PROVIDER REQUIREMENTS", "SUBCHAPTER E CERTIFICATION STANDARDS: SERVICE DELIVERY", "SUBCHAPTER F CERTIFICATION STANDARDS: QUALITY ASSURANCE", and "SUBCHAPTER G HHSC ACTIONS". At the bottom of the page, there is a navigation bar with links for "HOME", "TEXAS REGISTER", "TEXAS ADMINISTRATIVE CODE", and "OPEN MEETINGS".

[Title 26, Part 1, Chapter 565](#)

Searching the TAC



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Texas Administrative Code

texreg.sos.state.tx.us/public/readtac\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=565&rl=5

[<<Prev Rule](#)

visitors 1/2

Texas Administrative Code

| | |
|------------------------------|---|
| TITLE 26 | HEALTH AND HUMAN SERVICES |
| PART 1 | HEALTH AND HUMAN SERVICES COMMISSION |
| CHAPTER 565 | HOME AND COMMUNITY-BASED (HCS) PROGRAM AND COMMUNITY FIRST CHOICE (CFC) CERTIFICATION STANDARDS |
| SUBCHAPTER C | CERTIFICATION STANDARDS: INDIVIDUAL'S RIGHTS |
| RULE §565.5 | Rights of Individuals |

(a) The program provider cannot prohibit:

- (1) an individual, or the legally authorized representative (LAR) on behalf of the individual, from exercising the same rights and responsibilities exercised by people without disabilities; and
- (2) a LAR or family members from encouraging the individual to exercise the same rights and responsibilities exercised by people without disabilities.

(b) The program provider must develop and implement policies that ensure the individual is informed of his or her rights and can exercise his or her rights without interference, coercion, discrimination, or retaliation from the program provider. This includes the right to:

- (1) manage, be trained to manage, or have assistance in managing financial affairs upon documentation of the individual's written request for assistance;
- (2) access public accommodations;
- (3) be informed of the requirements for participation;
- (4) be informed, both orally and in writing, of all the HCS Program and CFC services available and rules pertaining to the individual's enrollment and participation in the program provider's program, including those related to the use of restraint, as well as any changes in these that occur;
- (5) be informed of the individual plan of care (IPC), implementation plan, and transportation plan, including any restrictions affecting the individual's rights;
- (6) participate in decisions and be informed of the reasons for decisions regarding plans for enrollment, service termination, transfer, relocation, or denial of Home and Community-based Services Program (HCS) Program or Community First Choice (CFC) services;
- (7) be informed about the individual's own health, mental condition, and related progress;
- (8) be informed of the name and qualifications of any person serving or treating the individual and to choose among various available service providers;
- (9) receive visitors without prior notice to the program provider;
- (10) have privacy in visitation with family and other visitors;



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GovDelivery Sign-up

Texas HHS Email and Text Updates

How do I sign up?



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- Go to www.hhs.Texas.gov
- Click on “subscribe” in the black header

[Apply for Benefits](#) | [A-Z Index](#) | [Connect](#) | [Español](#) | [Subscribe](#) | [Survey](#)

- Enter an email or phone number to set up a new account

A screenshot of the Texas Health and Human Services website's sign-up page. The page title is "Email & Text Updates / Actualizaciones por correo electrónico y mensajes de texto". Below the title, there is a paragraph in English and Spanish explaining the purpose of the form. The form includes a dropdown menu for "Subscription Type / Suscripción Tipo" with "Email / Correo electrónico" selected. Below this is a text input field for "Email / Correo electrónico" with a red asterisk indicating a required field. At the bottom of the form are two buttons: "Submit / Enviar" and "Cancel / Cancelar".



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Blackboard Connect Emergency Broadcast System Registration for Providers

Who must sign up?



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| Program | Personnel |
|---|---|
| ALF | Manager and Designee |
| DAHS | Director and Designee |
| HCS/TxHmL Individualized Skills & Socialization | Designee Designee |
| ICF | Administrator and Alternate Administrator |
| HCSSA | Administrator and Alternate Administrator |
| NF | Administrator and Director of Nurses |
| PPECC | Administrator and Alternate Administrator |



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How do I register?

Go to

<https://txhhscrsdopen.bbcportal.com/Entry>

and click:

Sign Me Up!

Download your handout ([PL 22-32](#)) for a step-by-step walkthrough for signing up!

REMEMBER: You will need to enroll each facility you manage! Separate accounts are needed for separate facilities.

What's next?



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Providers should have a process in place to ensure that Blackboard Connect registrations are updated as the required designated staff change.



Once your designated staff have signed up for Blackboard connect, your program should begin receiving announcements through the system

Resources



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- [HHS Texas.gov](#)
- [HHSC Long Term Care Providers](#)
- [Texas Administrative Code](#)
- [HHSC Contact Us](#)
- [Sign up for Texas HHS e-mail and text updates](#)
- [Texas.gov](#)
- [HHSC Provider Joint Training Opportunities](#)



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Questions

HHSC LTCR Policy
LTCRPolicy@hhs.texas.gov



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Thank You

**Long-term Care Regulation
Curriculum and Training**