Regulating Long-term Care Facilities

To ensure the health and safety of residents, the government regulates and inspects health care facilities. In Texas, that responsibility falls to the Texas Department of Aging and Disability Services (DADS).

DADS licenses and annually reviews nursing homes and certifies those that want to participate in Medicaid or Medicare. DADS licenses and monitors assisted living facilities that offer personal care services, but does not certify them since they do not provide skilled nursing care.

Assisted living facilities are monitored every two years.

Texas Department of Aging and Disability Services

DADS licenses and certifies facilities, including assisted living facilities and nursing homes. DADS staff inspects, surveys, makes follow-up visits and complaint investigations and other visits to ensure these facilities are operating according to state and federal regulations.

Staff, known as surveyors, inspects to:

- Determine if facilities meet minimum standards, if conditions endanger health and safety, or if poor practices are being followed.
- Check that facilities have corrected past problems.
- Investigate complaints.

Surveys and Licensures

To help protect residents, DADS requires workers and companies to have clear background checks and good operating histories. Before DADS approves adding new owners and operators to a license, the department checks their backgrounds. DADS surveys and inspects to make sure care and services meet standards. The results of these surveys are made available to the public.

Regulatory visits:

- Are unannounced
- May take place at any time
- Are resident directed and outcome oriented

Surveyors perform certain tasks during a survey. Standard nursing home surveys take about four days; assisted living facility surveys take one day. DADS may extend a survey if needed.
During the survey, the surveyors:

- Review the history of the facility and note concerns and decide whether to include specialists, such as pharmacists and dietitians, on the survey team.
- Meet with the facility administrator and introduce the team members.
- Tour the facility, meet residents and staff, and note concerns.
- Observe residents and staff, watch a medication pass to check for errors, and inspect the kitchen.
- Share observations, concerns, and problems with facility staff.

Within 10 working days of the exit conference, DADS sends a list of problems to the facility management. Within another 10 calendar days, the facility creates a plan of correction for each problem. By follow-up visit or desk review, DADS decides when each problem is corrected.

**Examination of Survey Results – Nursing Facility Requirements §19.409**

- Residents have the right to examine the results of the facility survey conducted by federal or state surveyors and any plan of correction.
- The facility must make the results available in a place readily accessible to residents and let them know where it is located.

**Required Postings – Licensing Standards for Assisted Living Facilities §92.127**

- The facility must make available a copy of the most recent facility inspection report.

**Complaint Investigations**

To investigate complaints, teams may conduct shortened surveys. Based on details in the complaint, such as specific conditions on weekends or during a specific shift, surveyors investigate on that day of the week or during that time of day.

**Enforcement**

In the case of recurring or serious problems, DADS staff may determine the need for an enforcement action. DADS can take actions against a facility, including license suspension and revocation, suspension of admissions, emergency suspension and a closing order, referral to the attorney general, and penalties ranging from $100 to $10,000.

**Centers for Medicare & Medicaid Services (CMS)**

CMS surveyors observe state surveyors as they monitor facilities. CMS ensures the state meets federal survey policies and procedures. They make sure DADS applies federal rules in a manner consistent with federal guidance.

States use different definitions for care provided in assisted living facilities, but no federal definition exists. Accordingly, CMS has no role in regulating them.