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March 19, 2004

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To: Assisted Living Facilities (ALF)

Re: Provider Letter #03-37 – **Informational Letter for Assisted Living Facilities**

This letter addresses training opportunities for assisted living facility (ALF) staff, the State Fire Marshal's adoption of the 2003 edition of the Life Safety Code, and the alert on reporting deaths to the Office of the Attorney General (OAG).

**Joint Training**

New joint training opportunities for assisted living facility personnel and survey staff begin in March 2004. The Texas Department of Human Services (DHS) Long Term Care Educational Services Section will conduct training on:

- Common Licensure Violations in Assisted Living,
- Understanding the Licensure Inspection Process for Assisted Living, and
- Writing Acceptable Plans of Correction for Assisted Living.

In May, "Restraints in Assisted Living" will also be offered.

The Educational Services website contains course descriptions, class availability, continuing education credit information, and a link to register for classes. The information is found at the following website: <http://www.dhs.state.tx.us/programs/ltc/Training/jointtraining.cfm>.

**Reporting Deaths to the Office of the Attorney General**

The Office of the Attorney General (OAG) sent a letter dated August 29, 2003, to all superintendents and general managers of assisted living facilities regarding new death reporting requirements added to the Texas Code of Criminal Procedure by Senate Bill 826, 78<sup>th</sup> Regular Legislative Session.

Under Article 49.24 of the Code of Criminal Procedure, a superintendent or general manager of a facility is required to report the death of an individual to the OAG within 24 hours of the death, if the death is required to be reported to a justice of the peace under Article 49.04 of the Code of Criminal Procedure. The superintendent or general manager is also required to submit a report to the OAG within 72 hours of the death.

### **When to report**

Not all deaths must be reported to the OAG. The Texas Code of Criminal Procedure, Chapter 49, Article 49.04(c) requires a death to be reported to the justice of the peace when an attending physician is unable to certify the cause of death. This applies to a death occurring in a county that does not have a medical examiner's office or that is not part of a medical examiner's district (Article 49.02).

When an individual dies in a facility and the physician is unable to certify the cause of death and this occurs in a county that does not have a medical examiner's office or that is not part of a medical examiner's district, the justice of the peace must be notified. This action triggers the requirement to notify the OAG.

**To report a death that meets the above criteria, call the OAG at (512) 475-4593. The "Residential Death Reporting Form" is available at the following website: <http://www.texasag.org/mfcu/>. To view the Code of Criminal Procedure, refer to CHAPTER 49 at: <http://www.capitol.state.tx.us/statutes/cp/cp0004900.html>.**

### **State Fire Marshal adopts the 2003 edition of the Life Safety Code**

DHS Licensing Standards for Assisted Living Facilities reference the 1988 edition of the Life Safety Code (LSC) for assisted living facilities. The 1988 edition of the LSC does not require fire sprinklers for small or large Type A facilities.

The State Fire Marshal and some city building departments enforce later editions of the LSC. Beginning with the 1991 edition of the LSC, sprinklers have been required for all newly constructed assisted living facilities, with some exceptions. Licensed facilities need only meet the existing occupancy chapters of the codes to satisfy the State Fire Marshal and city building authorities.

The 2003 edition of the LSC drops the evacuation capability of the residents as a criterion for determining the level of fire safety required and further emphasizes sprinklers as a minimum requirement. The State Fire Marshal adopted the 2003 edition of the LSC, effective September 1, 2003.

DHS will adopt a later edition of the code in the future, since the 1988 edition of the code is no longer in print. Existing facilities licensed under the earlier code editions will only need to meet the existing occupancy chapters of the adopted edition of the code.

When DHS adopts a later edition of the LSC, newly constructed facilities or conversions of existing unlicensed buildings must meet the new occupancy chapter of the code. The adoption of a new edition of the code will be by rule. Proposed changes to the licensing requirements will be published in the *Texas Register* for comments prior to final adoption of the changes. At this time, no date has been proposed for DHS to adopt a new edition of the code.

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If you have questions about the LSC section of this letter, please contact Fred Worley, Architectural Program Manager, at LTC-R State Office, (512) 438-2311.

If you have questions regarding any other information in this letter, please contact the Long Term Care-Regulatory Policy Section at (512) 438-3161.

Sincerely,

[signature on file]

Evelyn Delgado  
Assistant Deputy Commissioner  
Long Term Care-Regulatory

ED:pc