



COMMISSIONER
James R. Hine

January 23, 2006

To: Assisted Living Facilities

Subject: **Provider Letter #06-01** – New Provisions In State Law Related To Assisted Living Facilities Restraint And Seclusion

Effective: January 23, 2006

This letter is to advise you of new provisions in state law related to restraint and seclusion that apply to an assisted living facility (ALF). These provisions are part of Senate Bill 325 (SB 325), which was enacted by the Texas Legislature during the 79th Regular Session and was effective September 1, 2005. The text of SB 325 may be found at <http://www.capitol.state.tx.us/>.

SB 325 adds a new chapter, Chapter 322, to the Texas Health and Safety Code. The bill also adds §247.055 to the Texas Health and Safety Code, Chapter 247, the Assisted Living Facility Licensing Act. This new section requires a person providing services to a resident of an ALF to comply with Chapter 322 and the rules adopted by the Executive Commissioner of the Health and Human Services Commission to implement that chapter. Those rules are being developed; however, provisions of Chapter 322 with which you must comply even before rules are adopted are summarized in this letter.

First, please note that Chapter 322 prohibits a person from administering to an ALF resident any restraint that:

- obstructs the resident's airway, including a procedure that places anything in, on, or over the resident's mouth or nose;
- impairs the resident's breathing by putting pressure on the torso; or
- interferes with the resident's ability to communicate.

In addition, Chapter 322 prohibits an ALF from discharging or otherwise retaliating against any person because that person, or another person on his or her behalf, files a complaint, presents a grievance, or otherwise provides, in good faith, information relating to the misuse of restraint or seclusion at the ALF. Chapter 322 provides that an ALF that violates these provisions is subject to having its license revoked, suspended, or not renewed, and having an administrative penalty imposed on it.

Chapter 322 also requires that an ALF notify each resident, along with the resident's legally authorized representative, of the ALF's policies related to restraint and seclusion.

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Please direct any questions you may have about this letter to Dotty Acosta, Program Specialist,
Policy Development and Support, at (512) 438-2170 or dorothea.acosta@dads.state.tx.us.

Sincerely,

[signature on file]

Veronda L. Durden
Assistant Commissioner
Regulatory Services

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