

MEMORANDUM

Department of Aging and Disability Services Regulatory Services Policy * Survey and Certification Clarification

TO: Regulatory Services
Regional Directors and State Office Managers

FROM: Veronda L. Durden
Assistant Commissioner
Regulatory Services

SUBJECT: Inappropriately Placed Residents and Aging in Place – **S&CC 07-04**

APPLIES TO: Assisted Living Facilities

DATE: June 18, 2007

The purpose of this memorandum is to provide information on the aging in place waiver process. The aging in place waiver process allows Type A and Type B assisted living facilities to request that inappropriately placed residents be allowed to remain in the facility. An inappropriately placed resident is a resident who was appropriate when admitted to the facility but whose condition has changed. Texas Health and Safety Code Chapter 247, §247.066, provides a framework of procedures that a facility must follow when requesting that an inappropriately placed resident be allowed to remain in the facility. A facility is not required to keep a resident who is no longer appropriate for the facility's license.

Department of Aging and Disability Services (DADS) surveyors may determine that a resident is inappropriate because the resident requires additional services but is able to evacuate in the event of an emergency. A resident is not required to relocate if the resident is able to receive adequate care from the facility within its license parameters or from other providers. If the facility chooses to retain the resident, it must submit the following:

- the facility request for the resident to remain at the facility (DADS Form 1124),
- a written statement from the resident or responsible party that the resident wants to remain (DADS Form 1125), and
- a written assessment from a physician that the resident is appropriately placed (DADS Form 1126).

When DADS surveyors determine that a resident is inappropriately placed, the resident does not meet evacuation criteria, and the facility wants the resident to stay at the facility, the facility may initiate the evacuation waiver process.

This evacuation waiver process requires the above-mentioned documents to be submitted in addition to the following documents:

- notification to the fire marshal/state fire marshal (DADS Form 1127),
- notification to the fire suppression authority (DADS Form 1129),
- a detailed plan explaining how the facility will meet the evacuation needs of the resident,

- a copy of the facility floor plan,
- a copy of the facility's emergency evacuation plan,
- a copy of the facility's fire drills for the last 12-month period,
- a copy of a comprehensive assessment of the resident that has been completed within the last 60 days,
- a copy of the service plan that addresses all aspects of the resident's care, and
- any information that relates to the required fire safety features of the facility that will ensure the evacuation capability of any resident.

All required documents for either of these processes must be submitted not later than the 10th business day after the date the facility is informed of the surveyor's determination. This time frame begins when the facility has received DADS Form 3724, "Statement of Licensing Violations and Plan of Correction."

A DADS surveyor must determine that a resident is inappropriate before either of the processes begins. When this determination is made, the facility has the opportunity to submit required documents to allow the resident to stay at the facility and request an evacuation waiver if necessary.

These procedures are discussed in Provider Letter #02-32. A link to this provider letter is provided below for your convenience.

<http://www.dads.state.tx.us/providers/communications/2002/letters/PL02-32.html>

After all required documentation for an aging in place waiver for a resident that does not meet the evacuation requirements is submitted, DADS will review the documents to determine if an evacuation waiver will be granted or denied. The regional office **must** include the regional LSC program manager or designee, the State Office Compliance and Oversight manager or designee, and the State Office Life Safety Code manager or designee in the decision to grant or deny an aging in place evacuation waiver request.

When an evacuation waiver is denied, the facility is notified in writing and the resident must be discharged. The resident has 30 days from the date of discharge to move from the facility.

When an evacuation waiver is approved, the facility must implement the plan of action immediately. The plan is reviewed during the annual licensure inspection. If the facility is not following the plan and there are concerns about the resident's placement in the facility, DADS may cite the facility for an immediate threat to the health and safety of the resident with the waiver and/or other facility residents.

For questions regarding this memorandum, please contact an assisted living facility program specialist in the Policy, Rules, and Curriculum Development Unit at (512) 438-3161.