



COMMISSIONER  
Chris Traylor

August 31, 2010

To: Assisted Living Facilities

Subject: **Provider Letter #10-32** – Unlicensed Locations Operated by a Licensed Assisted Living Facility Owner (**Replaces Provider Letter #08-16**)

This letter updates information relating to changes to Texas Health and Safety Code (HSC) §247.002 in response to House Bill 216, 81st Legislature, Regular Session, 2009, relating to individuals or entities that provide personal care services or administration of medication at one or more locations.

Texas Administrative Code (TAC), Title 40, Part 1, Chapter 92, §92.11(a)(1), Criteria for Licensing, effective September 1, 2010, states:

- (a) A person must be licensed to establish or operate an assisted living facility in Texas.
  - (1) An assisted living facility is an establishment that:
    - (A) furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment;
    - (B) provides:
      - (i) personal care services;
      - (ii) administration of medication by a person licensed or otherwise authorized in this state to administer the medication; or
      - (iii) services described in clauses (i) and (ii) of this subparagraph; and
    - (C) may provide assistance with or supervision of the administration of medication.

The Texas Department of Aging and Disability Services (DADS) considers one or more facilities to be part of the same establishment and, therefore, subject to licensure as an assisted living facility, based on the following factors as cited in 40 TAC §92.11(a)(2):

- (A) common ownership;
- (B) physical proximity;
- (C) shared services, personnel, or equipment in any part of the facilities' operations; and
- (D) any public appearance of joint operations or of a relationship between the facilities.

DADS counts the total number of people in all locations that it considers to be part of the same establishment when determining whether the establishment is subject to licensure under HSC Chapter 247. Therefore, when one location is licensed and personal care services or administration of medication are also being provided to at least one individual in one or more other locations that DADS considers to be part of the same establishment, and the total number of people at all locations exceeds three individuals who are unrelated to the establishment owner, then all locations must be licensed.

Provider Letter #10-32  
August 31, 2010  
Page 2

The establishment must have at least one license that specifically identifies all locations, or the provider may choose to have a license for each location. If the provider chooses to have one license for all locations, all the residents must be appropriate for that license type.

DADS may take appropriate remedies against licensed assisted living facilities operating in violation of HSC Chapter 247. Additionally, DADS may refer an unlicensed assisted living facility operating in violation of HSC Chapter 247 to the Office of the Attorney General or local prosecuting attorney for injunctive relief or civil penalties.

You may access and download the Licensing Standards for Assisted Living Facilities and the licensure application in PDF format at the following links:

<http://www.dads.state.tx.us/handbooks/ls-alf>

<http://www.dads.state.tx.us/forms/3720/3720.pdf>

Please contact a policy specialist in the Policy, Rules and Curriculum Development unit at (512) 438-3161 if you have questions regarding this communication.

Sincerely,

*[signature on file]*

Veronda L. Durden  
Assistant Commissioner  
Regulatory Services

VLD:tab