



COMMISSIONER
Chris Traylor

May 14, 2010

To: Nursing Facilities (NFs)

Subject: Provider Letter #10-10 – NF Rule Revisions Relating to House Bill (HB) 2972, 81st Legislature, Regular Session, 2009

Effective: June 1, 2010

This letter is to inform NFs of several changes to Texas Administrative Code (TAC) Title 40, Part 1, Chapter 19 Nursing Facility Requirements for Licensure and Medicaid Certification, which will take effective June 1, 2010 in response to HB 2972, 81st Legislature, Regular Session, 2009.

Expedited Life Safety Code (ELSC) (Statutory Reference: Health and Safety Code §242.039)

As a result of changes to 40 TAC Chapter 19, an applicant may request an ELSC inspection for any **initial application that is pending on June 1, 2010**, and any **initial application submitted** to the Department of Aging and Disability Services (DADS) Licensing and Credentialing section, Regulatory Services division, **on or after June 1, 2010**. An applicant may request an ELSC inspection by submitting the following:

- a written request informing DADS that the facility meets the architectural requirements in 40 TAC Chapter 19, Subchapter D, Facility Construction, and is ready for its ELSC inspection;
- a complete application as required in §19.201(b), Criteria for Licensing and §19.204, Application Requirements; and
- the required fee in accordance with new §19.220.

DADS will conduct the ELSC inspection within 15 business days after the Licensing and Credentialing section determines whether the information submitted by the applicant is complete and accurate. A fee is required for each ELSC inspection. The fee covers only one ELSC inspection. If DADS is unable to meet the request for an expedited survey, the applicant may request a refund.

Definition of Controlling Person (Statutory Reference: Health and Safety Code §242.0021)

Any NF application **pending on June 1, 2010, or submitted after June 1, 2010** will be required to include information regarding controlling persons as prescribed in the new definition of “controlling person.” The new definition clarifies that neither a shareholder nor lender of a publicly traded corporation is considered a “controlling person” of a NF.

The link to the electronic version of the Nursing Facility Requirements for Licensure and Medicaid Certification can be reviewed at <http://www.dads.state.tx.us/handbooks/nfr-lmc>. HB 2972 can be reviewed at <http://www.capitol.state.tx.us/>. Health and Safety Code Chapter 242 can be reviewed at <http://www.statutes.legis.state.tx.us/>. If you experience problems opening any of these links, copy and paste the link into the address bar of your web browser to go directly to the website.

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If you have any questions about the application process or the status of a license application, contact the Professional and Technical Review unit at 512-438-2630.

If you have questions about the content of this letter, please contact a policy specialist in the Policy, Rules and Curriculum Development unit at 512-438-3161.

Sincerely,

[signature on file]

Veronda L. Durden
Assistant Commissioner
Regulatory Services

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