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

TO: Regulatory Services
Regional Directors, Regional Enforcement Coordinators, Regional Program Managers, and State Office Managers

FROM: Veronda L. Durden
Assistant Commissioner
Regulatory Services

SUBJECT: Unacceptable Plan of Correction (PoC) Procedures – S&CC 07-11

APPLIES TO: Adult Day Care (ADC) Facilities

DATE: January 22, 2008

This memorandum provides procedures to assist facilities in forwarding acceptable PoCs to Department of Aging and Disability Services (DADS) regional offices in a timely manner.

40 Texas Administrative Code §98.82(f) requires a facility to submit an acceptable PoC by the 10th calendar day after receipt of DADS’ final statement of violations (DADS Form 3724).

If a facility submits an unacceptable PoC, the DADS regional office contacts the facility by telephone and/or in writing and conveys the following:

- Why the PoC was unacceptable and
- A time frame by which to submit the revised PoC

If time is of the essence due to an enforcement action, the DADS regional office should contact the facility by telephone to expedite the facility’s opportunity to correct the unacceptable PoC. This contact may be followed by a letter.

If the revised PoC is unacceptable, the DADS regional office contacts State Office Provider Licensing Enforcement (PLE) with the name and facility identification number of the facility and why the PoC is unacceptable. PLE sends the facility a license revocation notice.

If a facility fails to submit a PoC, the DADS regional office contacts the facility by telephone to determine why the facility did not submit the PoC. If the region determines that the facility’s reason for failing to submit a PoC is unacceptable, the region follows the above procedure for unacceptable PoCs.
An example of an acceptable PoC

A facility received a DADS Form 3724 for one violation.

The facility entered a PoC in the second column of DADS Form 3724, opposite the corresponding tag number (e.g., A187), and entered an expected completion date opposite the PoC in the last column of the form. The facility typed on the DADS Form 3724. It could have instead written legibly in black ink.

The facility's PoC included:

- Exactly how the facility corrected, or will correct, the violation for clients found to have been affected by the violation and the procedure for implementing the acceptable PoC for the specific violation cited. The PoC addressed the processes that led to the violation. The facility attached additional documentation showing how the facility corrected the violation to the DADS Form 3724. If the facility corrected the violation since the survey, that fact could have been indicated on the form, along with the approximate date of correction.

- How the facility identified other clients who have the potential to be affected by the same violation, and how the facility will act to protect clients in similar situations.

- What measures were, or will be, put into place or systemic changes were, or will be, made to ensure that the violation will not recur.

- The monitoring procedure to ensure that the PoC is effective and that the specific violation cited remains corrected and/or in compliance with regulatory requirements. How the facility will monitor its corrective actions/performance to ensure that the violation is being corrected and will not recur, i.e., what program will be put into place to monitor the continued effectiveness of the systemic change to ensure that solutions are permanent.

- The expected date the facility will complete the corrective action for the violation within the time frames specified in the form letter(s) requesting a PoC generated from ASPEN and sent to the facility.

- The title of the person responsible for implementing the acceptable PoC. The facility did not use proper names.

DADS staff reviews PoCs for appropriateness, legibility, and completeness and sends written notice that a PoC is acceptable or unacceptable. Please be advised that, after a PoC is accepted, DADS staff will make an unannounced future contact to determine if the facility has made the corrections as agreed.

Computer-based training is available to assist facilities with writing acceptable PoCs. It includes information on PoC time frames. The training is available on the DADS Web site at http://www.dads.state.tx.us/business/cbt/.

For questions concerning this memorandum, please contact an ADC policy specialist in the Policy, Rules, and Curriculum Development Unit at (512) 438-3161.