

MEMORANDUM

Department of Aging and Disability Services (DADS)
Regulatory Services Policy * Survey and Certification Clarification (S&CC)

TO: Regulatory Services
Regional Directors and State Office Managers

FROM: Mary T. Henderson
Assistant Commissioner
Regulatory Services

SUBJECT: **S&CC 14-02** — Forwarding Copy of Investigation Narrative to Appropriate Law Enforcement Agency and District Attorney (**Replaces S&CC 99-13**)

APPLIES TO: Adult Day Care Facilities (ADCs), Assisted Living Facilities (ALFs) and Nursing Facilities (NFs)

DATE: June 23, 2014

DADS is replacing S&CC 99-13, on the same subject, with updated Texas Health and Safety Code (HSC) requirements and references and to convey that this memorandum no longer applies to intermediate care facilities for individuals with an intellectual disability or related conditions.

Each regional office is responsible for sending reports in accordance with the guidance that follows.

For an ALF or a NF, HSC §[260A.007\(k\)](#) requires DADS to forward to the district attorney a copy of each written report (narrative) of the investigation of an allegation of abuse, neglect or exploitation (ANE) or of other complaints investigated under §260A.007, which relates to:

- A resident's health or safety is in imminent danger;
- A resident has recently died because of conduct alleged in the report of abuse, neglect, exploitation or other complaint;
- A resident has been hospitalized or been treated in an emergency room because of conduct alleged in the report of abuse, neglect, exploitation or other complaint;
- A resident has been a victim of an act or attempted act described by Section 21.02, 21.11, 22.011 or 22.021 Penal Code; or
- A resident has suffered bodily injury, as that term is defined by Section 1.07, Penal Code, because of conduct alleged in the report of abuse, neglect, exploitation or other complaint.

If a law enforcement agency has not investigated the allegation, DADS must also send a copy of the written report to the appropriate law enforcement agency. **These requirements apply regardless of whether the allegation(s) was substantiated.**

For an ADC, Texas Administrative Code, Title 40, Part 1, Chapter 98, §[98.94](#)(c) states that DADS sends a written report of an ANE investigation that finds physical abuse to the appropriate law enforcement agency. In addition, 40 TAC §98.94(d) states that DADS sends a written report of an investigation that finds ANE of an individual with a guardian to the probate or county court that oversees the guardianship.

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

Attachments

Adult Day Care Facilities
(Copy to Local Prosecuting Attorney and Chief of Police)

Date

Name

Address

City/State, Zip Code

Dear (Name of Chief of Police / Local Prosecuting Attorney):

As required by the "Licensing Standards for Adult Day Care Facilities," Texas Administrative Code, Title 40, Part 1, Chapter 98, §98.94(c)-(d), enclosed is a copy of investigation report (control number) concerning a **substantiated** allegation of abuse/neglect/exploitation at (name of facility) in (city, state). This information is being supplied for any action that you deem necessary.

If a referral is being made, include the following paragraph:

We are referring the alleged perpetrator, (name), to (name of board referred to) for disciplinary action, if appropriate.

If you need additional information about this case or have questions concerning this report, you or your staff may contact the investigator, (name), at (telephone number). General questions concerning the investigative process may be directed to (name, Program Manager), at (telephone number).

Sincerely,

(Name), Regional Director

Enclosure c:

Assisted Living Facilities
(Copy to Local Prosecuting Attorney and Chief of Police)

Date

Name

Address

City/State, Zip Code

Dear (Name of Chief of Police / Local Prosecuting Attorney):

As required by the Texas Health and Safety Code, §260A.007(k), enclosed is a copy of investigation report (control number) concerning an allegation of abuse/neglect/exploitation at (name of facility) in (city, state). **The allegation was (check one):**

substantiated

unsubstantiated

This information is being supplied for any action that you deem necessary.

If a referral is being made, include the following paragraph:

We are referring the alleged perpetrator, (name), to (name of board referred to) for disciplinary action, if appropriate.

If you need additional information about this case or have questions concerning this report, you or your staff may contact the investigator, (name), at (telephone number). General questions concerning the investigative process may be directed to (name, Program Manager), at (telephone number).

Sincerely,

(Name), Regional Director

Enclosure c:

Nursing Facilities
(Copy to Local Prosecuting Attorney and Chief of Police)

Date

Name

Address

City/State, Zip Code

Dear (Name of Chief of Police / Local Prosecuting Attorney):

As required by the Texas Health and Safety Code, §260A.007(k), enclosed is a copy of investigation report (control number) concerning an allegation of abuse/neglect /exploitation at (name of facility) in (city, state). **The allegation was (check one):**

substantiated

unsubstantiated

This information is being supplied for any action that you deem necessary.

If a referral is being made, include the following paragraph:

We are referring the alleged perpetrator, (name), to (name of board referred to) for disciplinary action, if appropriate.

If you need additional information about this case or have questions concerning this report, you or your staff may contact the investigator, (name), at (telephone number). General questions concerning the investigative process may be directed to (name, Program Manager), at (telephone number).

Sincerely,

(Name), Regional Director

Enclosure c: