



COMMISSIONER
Jon Weizenbaum

Date: July 18, 2016

To: Assisted Living Facilities (ALFs)
Nursing Facilities (NFs)

Subject: Provider Letter No. 16-25 – Rule Amendments in Title 40, Texas Administrative Code (TAC), Chapter 19, Nursing Facility Requirements for Licensure and Medicaid Certification; and Chapter 92, Licensing Standards for Assisted Living Facilities

The Texas Department of Aging and Disability Services (DADS) has added new rules and amended existing rules in 40 TAC Chapters 19 and 92 regarding procedures that require a facility to request guardianship orders for a resident, and to disclose whether a facility is certified to provide services and treatment to Alzheimer's residents. The new rules become effective on July 21, 2016; however, surveyors will begin enforcing rules for Chapters 19 and 92 as of September 1, 2016.

New rules at §19.1936 and §92.42 requires a NF or an ALF to request a copy of a court order appointing a guardian and the letters of guardianship for the resident or a resident's estate from a resident's nearest relative or person responsible for the resident's support upon admission or when the facility becomes aware a guardian is appointed. The new rules indicate the number of follow-up attempts that are to be made when documents are not received and when to request updated guardianship documentation. DADS also amended §19.1911 and §92.41 to require a NF and an ALF to maintain a copy of the court order and letters of guardianship in the clinical records or resident's records, as appropriate. These new rules and amendments implement Texas Health and Safety Code (HSC) §242.019 and §247.070, as added by House Bill (H.B.) 1337 of the 84th Legislature, Regular Session, 2015.

DADS amended §19.204 and §92.53 to require a NF and an ALF to include in the Alzheimer's disclosure statement whether the facility is certified under HSC §242.040 or §247.029 to provide specialized services and treatment to residents with Alzheimer's disease. DADS will revise forms as appropriate. DADS amended §19.1921 to clarify which NF residents must receive an Alzheimer's disclosure statement and to establish a 30-day time frame for the NF to notify a resident before updating the disclosure statement. These amendments implement changes to HSC §242.202 and §247.026, as added by H.B. 2588 of the 84th Legislature, Regular Session, 2015.

Finally, DADS amended §19.101 and §92.2 to include a definition of "Alzheimer's disease and related disorders" in the NF and ALF rules. These amendments implement changes to HSC §242.040 and §247.029, as added by H.B. 2588.

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The electronic handbooks for Chapters 19 and 92 can be reviewed at:

- [Nursing Facility Requirements for Licensure and Medication Certification](#)
- [Licensing Standards for Assisted Living Facilities](#)

If you have questions about this provider letter or the licensure guidelines, please contact a policy specialist with the Policy, Rules and Curriculum Development section at (512) 438-3161.

Sincerely,

[signature on file]

Mary T. Henderson
Assistant Commissioner
Regulatory Services

MTH:cg