



COMMISSIONER  
Jon Weizenbaum

October 28, 2014

To: Adult Foster Care Providers

Subject: Information Letter No. 14-70  
Adult Foster Care Second-story Evacuation

The purpose of this Information Letter is to provide clarification on the assessment by Department of Aging and Disability Services (DADS) staff of a two-story Adult Foster Care (AFC) home in relation to the safe evacuation of an individual.

In accordance with Title 40, Texas Administrative Code (TAC), Chapter 48, Subchapter K, Minimum Standards for Adult Foster Care, Section 48.8906(a)(8), all adult foster care homes and providers must demonstrate the ability to evacuate all residents from the home within three minutes.

If DADS staff determines there is a health or safety risk to an individual before or during a demonstration to evacuate, or an evacuation drill in progress, the evacuation will be halted. If a health or safety risk is identified, DADS staff will take steps to immediately protect the individual in accordance with Title 40, TAC, Chapter 49, Contracting for Community Services, Section 49.511:

**Immediate Protection and Immediate Protection Plan.**

- a) DADS requires a contractor to immediately protect an individual's health and safety if DADS determines that:
  - 1) the contractor is not complying with its contract; and
  - 2) the contractor's failure to comply with its contract jeopardizes the health and safety of the individual.
- b) If DADS requires immediate protection in accordance with subsection (a) of this section, DADS notifies the contractor:
  - 1) orally or in writing, that the contractor must immediately protect the individual's health and safety; and
  - 2) in writing, that the contractor must submit and implement a written immediate protection plan.
- c) If DADS notifies the contractor in accordance with subsection (b) of this section, the contractor must:
  - 1) immediately protect the individual's health and safety; and
  - 2) submit a written immediate protection plan to DADS within three business days after the date of the notice from DADS.

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- d) An immediate protection plan submitted in accordance with subsection (c)(2) of this section must:
- 1) describe the non-compliance that jeopardized the health and safety of the individual;
  - 2) describe the immediate protection taken by the contractor;
  - 3) describe the activities the contractor will perform to prevent the non-compliance described in paragraph (1) of this subsection from reoccurring;
  - 4) include a schedule for performing the activities described in paragraph (3) of this subsection; and
  - 5) include:
    - (A) the title of the person who ensured completion of the immediate protection; and
    - (B) the title of the person responsible for completion of the activities described in paragraph (3) of this subsection.

AFC providers that demonstrate the ability to evacuate all individuals from the home within three minutes without posing a health or safety risk to an individual will achieve compliance with contract requirements related to the evacuation of a home. AFC providers that are unable to demonstrate the ability to evacuate all individuals from the home within three minutes will not be in contract compliance and will be subject to actions and/or sanctions outlined in their DADS contract and Chapter 49.

If you have questions about this letter, please contact your regional contract manager.

Sincerely,

*[signature on file]*

Elisa J. Garza  
Assistant Commissioner  
Access and Intake

*[signature on file]*

Donna Jesse  
Director  
Center for Policy and Innovation