



COMMISSIONER
Jon Weizenbaum

July 8, 2015

To: All Licensed Adult Day Care Facilities

Subject: Provider Letter No. 15-14 – Guidelines for Reporting Incidents to DADS (Replaces Provider Letter 03-13)

This letter explains how an adult day care facility (“facility”) must report incidents to the Texas Department of Aging and Disability Services (DADS). A person that has reasonable cause to believe that an elderly or disabled person is in a state of being abused, exploited, or neglected, must report the incident to DADS for investigation, as cited in Texas Administrative Code (TAC), Title 40, Part 1, Chapter 98, §98.92(a). These updated guidelines supersede those dated June 1, 2003.

What is an incident?

An abnormal event including accidents or injury to clients that occurs in the facility, when the facility is responsible for the supervision of the client at the time the act occurs, or when the alleged perpetrator is affiliated with the facility.

Which incidents are facilities required to report?

1. Death

If the death of a client involves unusual circumstances that cast doubt upon the death being from natural causes, the facility must report the death. Examples include, **but are not limited to:**

- Death due to medication overdose, administration of wrong medication, or failure to administer a medication
- Accidental death caused by exposure to weather, being struck by a motor vehicle, drowning, strangulation (by ligature, aspiration or positional asphyxiation), burns (fire, water or chemical), electrical shock, or falls
- Suicide
- Death following a client-to-client altercation

2. Abuse

Abuse as defined in HRC [§48.002\(2\)](#) and [40 TAC §98.2\(1\)](#)

3. Neglect

Neglect as defined in HRC [§48.002\(4\)](#) and [40 TAC §98.2\(46\)](#)

4. Exploitation

Exploitation as defined in HRC [§48.002\(3\)](#) and [40 TAC §98.2\(26\)](#)

5. Missing Client

- A. When a missing client is not located during a search of the facility, facility grounds and immediate vicinity, **and there are circumstances that place the client’s health,**

701 W. 51st St. ★ P.O. Box 149030 Austin, Texas 78714-9030 ★ (512) 438-3011 ★ www.dads.state.tx.us

An Equal Opportunity Employer and Provider

- safety, and/or welfare at risk**, the facility must make a report. The facility must make the report as soon as the facility becomes aware the client is missing and cannot be located. Examples include, but are not limited to:
- A client needs medications that, if not taken as scheduled, place the client at risk of serious illness and/or death.
 - Extreme weather conditions could expose client to potential freezing, heat prostration, drowning from flooding, etc.
 - The client is confused or otherwise incapable of assessing potential danger.
 - There is suspicion of foul play.
- B. Regardless of the circumstances, the facility must report any client missing for eight hours without being found. In addition, the facility must contact the DADS Consumer Rights and Services Section every day until the client is found.
- C. The facility must report any client who has been missing and is found seriously injured or deceased.

6. **Drug Diversions**

A facility must make a report when it has reason to believe that drugs were stolen. The facility should also contact local law enforcement.

7. **Fires**

- A. Within 15 days of the incident, a facility must report all fires causing damage to the facility and/or equipment. The facility must include Form 3707, Fire Report for Long Term Care Facilities, with the facility investigation report.
- B. A facility must **immediately** report any fire causing injury or death to a client.

8. **Conditions that pose a threat to client health and safety**

A facility must report any situation that poses a threat to clients, staff, or the public including situations for which the facility must notify or summon local law enforcement or the local fire authority police to maintain safety. Examples include, but are not limited to:

- Bomb threat
- Structure damage due to tornado
- Flood
- Generator or emergency power failure
- Sprinkler system failure
- Fire alarm failure
- Environmental conditions that compromise the facility's structure
- Air conditioning failure when the outdoor temperature is or will be 90 degrees or above
- Heating failure if the outdoor temperature is 65 degrees or below

Are there incidents that occur in a facility that would not be reported to DADS?

Yes, there are incidents that occur in facilities that are **not** required to be reported to DADS. The following are examples:

1. Criminal Acts Not Otherwise Reportable to DADS

The local law enforcement must be contacted when the facility believes any criminal act has been committed.

- A. Burglary – a facility must notify local law enforcement
- B. Theft by unknown persons – a facility must notify local law enforcement

2. Minor Altercations Between Clients That Do Not Result in Injury

What is the timeframe for reporting an incident?

A facility must make a report to DADS Consumer Rights and Services **immediately** on learning of the incident with the exception of fires, which are reportable within 15 days of the incident.

How does a facility make a report to DADS?

There are two ways to make a report to DADS:

- A facility may make an oral report at 1-800-458-9858.
- A facility may [submit an electronic self-reported incident via the DADS website](#).

What information is needed when a facility reports an incident?

When reporting an incident by phone, the following information is needed:

- Facility name;
- Facility identification number;
- Reporter's name and contact information;
- Client name(s), age(s) and address(es);
- Name and address of the person responsible for the care of the client, if available;
- Nature and extent of the elderly or disabled person's condition;
- Time and date of the incident;
- What occurred;
- Basis of reporter's knowledge; and,
- Action taken by the facility to date.

After making a report, is a facility required to conduct an investigation?

Yes. The facility must investigate the alleged incident of abuse, neglect, or exploitation. A facility must also investigate any other reportable incident.

Is a facility required to submit a written investigation?

Yes. The facility must submit [Form 3613A- Provider Investigation Report](#) **no later than the fifth calendar day** after the date the facility makes the oral report or electronic report to DADS. A facility must submit a separate Form 3613A for each incident.

What documents must a facility submit to DADS?

A facility must complete and submit a copy of [Form 3613-A - Provider Investigation Report](#). The written investigation must include statements and other relevant documentation. When reporting a fire, a facility must also submit [Form 3707- Fire Report for Long Term Care Facilities](#).

A facility may send the Form 3613-A to Consumer Rights and Services by email to crsprovider@dads.state.tx.us. If the Form 3613-A, with statements and other relevant documentation is 15 pages or less, the facility may prefer to email or fax the report package toll-free to DADS at 1-877-438-5827.

If the form, including statements and other relevant documentation is 16 pages or more, email to the above address or mail the report and attachments to:

Department of Aging and Disability Services Consumer Rights and Services Section, E-249
ATTN: Intake Coordinator P.O. Box 149030
Austin, TX 78714-9030

Always include the DADS facility identification number on the report.

If you have questions about these guidelines, please contact a policy specialist with the Policy, Rules and Curriculum Development unit at (512) 438-3161.

Sincerely,

[signature on file]

Mary T. Henderson
Assistant Commissioner
Regulatory Services

MTH:cg