



December 1, 2017

To: Assisted Living Facilities (ALFs)

Subject: **Provider Letter 17-36** – Resolution of an Immediate Threat of Harm During an On-site Inspection

During an on-site inspection of an Assisted Living Facility, if an HHSC inspector finds a violation that creates an immediate threat to the health and safety of the residents, HHSC is authorized by HSC §247.042 to suspend the facility's license or immediately close the facility.

In order to avoid displacing residents due to a facility closure or license suspension, inspectors may request the facility to submit sufficient documentation and present evidence showing that satisfactory action has been taken to resolve the immediacy of the identified threat. Documentation should include the steps taken to eliminate or reduce the immediate threat to the health and safety of the resident(s).

Immediate threat of harm can be corrected by:

- eliminating the direct threat;
- removing the resident(s) at risk;
- reducing the immediacy of the threat; or
- reducing the severity of the threat.

Documentation should include:

- a description of how the violation will be corrected;
- a description of how affected residents will be identified;
- the steps that will be taken to monitor the changes;
- the actions the facility will take to ensure the violation will not reoccur; and
- a timeline for accomplishing the corrections.

Surveyors may confirm the facility has addressed the immediate threat by:

- interviewing affected residents;
- interviewing appropriate staff; and
- observing the resolution of the immediate threat.

The inspector will conclude the review if, after reviewing documentation and reviewing sufficient evidence, the inspector determines that the residents are no longer at risk of serious injury, impairment or death. A follow up visit will be conducted to confirm that the facility's implemented measures are still effective so as to prevent reoccurrences of the violation(s) that led to the initial immediate threat of harm.

If the facility does not provide sufficient documentation and evidence that the residents are no longer at risk, the department may begin the process of ordering the immediate closure of the facility or the suspension of its license.

Resolution of an immediate threat does not constitute an admission of a violation nor does it waive the provider's right to an informal dispute resolution (IDR). Additionally, actions taken to resolve an immediate threat do not preclude HHSC from pursuing enforcement action related to the identified violation nor do they satisfy the requirement to submit a plan of correction as described in Texas Administrative Code, Title 40, Part 1, Chapter 92, §92.82(g). A facility must still submit an acceptable plan of correction to the regional director within 10 working days after receiving the statement of violations.

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

Sincerely,

[Signature on file]

Mary T. Henderson  
Associate Commissioner  
Long-term Care Regulatory