



Long-Term Care Regulatory Provider Letter (PL)

Number: PL 18-03-NF

Title: Immediate Threat Violations

Provider Types: Nursing Facilities (NF)

Date Issued: February 2, 2018

1.0 Subject and Purpose

Based on recent provider feedback, HHSC is issuing this guidance concerning when a licensure violation counts as one of the three violations forming the basis for the license revocation that is required by [§19.2107](#) in 40 Texas Administrative Code Chapter 19.

2.0 Background/History

On March 27, 2017 HHSC implemented new rules (§19.2107 and §19.2113) in 40 Texas Administrative Code (TAC) Chapter 19 that require the Executive Commissioner (EC) of the Health and Human Services Commission, subject to certain exceptions, to revoke a nursing facility's license if the facility commits three violations within a 24 month period that constitute an immediate threat to health and safety and are related to abuse or neglect of a resident.

These rules and amendments implemented Texas Health and Safety Code (HSC) §242.061, as amended by Senate Bill 304 of the 84th Legislature, 2015.

3.0 Policy Details & Provider Responsibilities

A violation counts as one of the three violations forming the basis for license revocation if:

- the violation is related to abuse or neglect; and
- the violation is cited at the immediate threat level which means the violation must have a scope and severity level of J, K, or L; and
- the violation is included on the final written statement of violations sent to the facility within 10 working days after the exit conference; and
- the survey team leaves a letter with the facility administrator at the time of the exit conference that serves as written notice that the survey team identified a violation related to abuse or neglect that constitutes an immediate threat to resident health and safety.

Additionally, a violation counts as one of the three violations forming the basis for license revocation if it is cited when a survey team re-enters a facility to re-open an inspection or investigation and identifies abuse or neglect unrelated to violations identified at the original inspection or investigation.

A violation does not count as one of the three violations forming the basis for license revocation if:

- the violation corresponds to a federal citation that is past non-compliance;
- the violation's severity is below a level J;
- the violation is cited at the immediate threat level but is not related to abuse or neglect;
- the violation is removed from the license holder's record, or reduced in severity, through the informal dispute resolution process, so it is no longer cited as an immediate threat; or
- the violation is cited after a survey team exits but has to re-enter a facility to re-open an inspection or investigation and the violation is related to violations from the original visit.

4.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules and Training Section at (512) 438-3161.

5.0 Key Words

Abuse

Immediate Threat

Neglect

Nursing Facility

Nursing Facilities

Past Non-compliance

Three Strikes

[signature on file]

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Long-term Care Regulatory

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