

MEMORANDUM

Texas Department of Human Services * Long Term Care/Policy

TO: Long Term Care -Regulatory
Regional Directors, State Office Section Managers and
HCSSA Program Administrators

FROM: Marc Gold, Director
Long Term Care Policy
State Office MC: W-519

SUBJECT: Regional Survey & Certification Letter #02-02

DATE: April 15, 2002

The attached RS&C Letter is being provided to you for information purposes and should be shared with all professional staff.

- RS&C Letter No. 02-02 -- Termination of Accredited Hospital. Please direct inquiries to Health Facility Licensing and Compliance Division, Texas Department of Health at (512) 834-6648.

If you have any questions, please direct inquiries to the individuals or sections listed above.

~Original Signature on File~

Marc Gold

[Attachment](#)

March 4 , 2002

REGIONAL SURVEY AND CERTIFICATION LETTER NO: 02-02

To: All State Survey Agencies (Action)
All Title XIX Single State (Information)
Agencies

Subject: Termination of Accredited Hospital

The purpose of this letter is to clarify the procedures to be followed when an accredited hospital is found not in compliance with one or more Conditions of Participation (CoP) during a complaint survey. This letter will delineate the responsibilities of the Regional Office (RO) and the State Agency (SA) in processing termination actions of accredited hospitals.

Sections 1864(c) and 1865 of the Social Security Act (Act) provide the basis for conducting complaint surveys of accredited hospitals. The regulations authorizing such surveys are found in 42 CFR 488.7(a)(2). The SA should refer to the RO all allegations against accredited hospitals concerning poor quality of care or other indications of noncompliance with CoPs. A substantial allegation of noncompliance refers to a complaint from any sources that, if substantiated, would have an impact on the health and safety of patients, and raises doubts as to a provider's compliance with one or more CoPs.

If the RO determines that a survey should be performed, the RO completes and transmits to the SA a ***Request for Validation of Accreditation Survey for Hospital (Form CMS-2802)***. The RO will check Item 5 to indicate that the hospital is not to be notified in advance of the survey. The SA investigates a complaint within 2 days of receipt of the Form CMS-2802 if the RO determines that the complaint involves potential immediate jeopardy to patient health and safety. Otherwise, the RO will check Item 6 to indicate that the SA is to investigate non-immediate jeopardy complaints within 45 days.

The SA conducts the complaint survey in accordance with the survey protocol for hospitals. The SA only surveys the CoPs related to the complaint as authorized by the RO. The SA forwards to the RO the survey packet that contained the applicable required documents listed in **Attachment A** after the completion of the complaint survey.

In Compliance

There is no Condition level deficiency cited. The SA forwards to the RO the survey packet [**Attachment A(A)**] within 30 days after the completion of the survey. If the RO determines that the accredited hospital is in compliance with the CoPs investigated after review of the survey packet; the RO notifies the hospital and forwards a copy of the letter to the SA and the

accrediting organization. No follow-up survey is conducted on Standard level deficiency citations.

Not In Compliance – Immediate Jeopardy

The SA forwards to the RO the survey packet [**Attachment A(B)(1)**] within 3 days after the completion of the survey. If the RO determines after review of the survey packet that there are deficiencies that pose an immediate jeopardy (IJ) to patient health and safety, the hospital is placed on the 23-day termination track. See SOM 3010. The RO will notify the hospital of the proposed termination action and request acceptable plans of correction. When acceptable plans of correction are received, the RO will direct the SA to conduct a revisit before the set termination date. The revisit will include a **full survey** of the remaining CoPs.

The termination action is rescinded if the IJ has been removed, and compliance is achieved and documented through the onsite verification. The SA will certify to the RO its findings [**Attachment A(B)(2)**] and recommend that the termination action be rescinded. The RO will notify the hospital of its compliance status and that it is no longer under the SA survey jurisdiction. A copy of the letter is forwarded to the SA and the accrediting organization.

However, if the IJ has been removed but Condition level deficiencies still exist, the SA gives the hospital up to 67 more days or 90 days total (23 plus 67) to achieve compliance. The SA will certify to the RO [**Attachment A(B)(3)**] that the IJ has been removed and recommend that the 23-day termination action be rescinded and place the hospital on a non-IJ termination tract. The RO will notify the hospital of the new termination date and request that acceptable plans of correction be provided to the SA. The SA will schedule and conduct the revisit by the **60th day** without prior approval from the RO.

If complete compliance to the CoPs is achieved by the hospital during the second revisit, then the SA will certify its findings to the RO [**Attachment A(B)(4)**] and recommend that termination action should be rescinded. The RO will notify the hospital of its compliance status and that it is no longer under the SA survey jurisdiction. A copy of the letter is forwarded to the SA and the accrediting organization.

However, in the event that the hospital failed to come into compliance, the SA will forward the complete survey packet [**Attachment A(B)(5)**] to the RO within 10-days. After review of the survey packet, the RO will send the hospital a final termination letter and publishes a public notice. The hospital will be terminated from the Medicare program.

Not In Compliance – Not Immediate Jeopardy

The SA forwards the survey packet [**Attachment A(C)(1)**] to the RO within 10 days after the completion of the survey. If the RO determines after review of the survey packet that there are Condition level deficiencies that do not pose an immediate jeopardy (IJ) to patient health and safety, the RO will notify the hospital of the **removal of its deemed status** and places it under SA survey jurisdiction (See **Attachment B**). The RO will request the SA to conduct a **full survey** at their earliest convenience.

If the SA confirms that the hospital is in compliance with all the CoPs during the full survey, the SA forwards to the RO the survey packet [**Attachment A(C)(2)**] within 30 days after the completion of the survey. No Condition level deficiency is cited. If the RO determines that the accredited hospital is in compliance after review of the survey packet; the RO notifies the hospital and forwards a copy of the letter to the SA and the accrediting organization. No follow-up survey is conducted on Standard level deficiency citations.

If the SA confirms that one or more CoPs are still out of compliance during the full survey, the SA will follow the 90-day termination procedure under SOM 3012. No documents are forwarded to the RO. The SA will notify the hospital using the termination letter in **Attachment C**. The SA will conduct the **first revisit within 45 days** from the date of the survey.

If compliance to the CoPs is achieved by the hospital during the first revisit, then the SA will certify its findings to the RO [**Attachment A(C)(4)**] and recommend that termination action should be rescinded. The SA will forward the survey packet to the RO within 10 days. The RO will notify the hospital of its compliance status and that it is no longer under the SA survey jurisdiction. A copy of the letter is forwarded to the SA and the accrediting organization.

If the hospital remains out of compliance with one or more CoPs, the SA will certify its findings to the RO (**Attachment A(C)(5)**). The SA will notify the hospital of the continuation of the termination action by using **Attachment D** and request acceptable plans of correction. When the SA had received acceptable plans of correction from the hospital, the SA will request from the RO an authorization to conduct a **second revisit by the 60th day**. Only the second revisit is subject to RO approval.

If complete compliance to the CoPs is achieved by the hospital during the second revisit, then the SA will certify its findings to the RO (**Attachment A(C)(6)**) and recommend that termination action should be rescinded. The SA will forward the complete survey packet to the RO within 10 days. The RO will notify the hospital of its compliance status and that it is no longer under the SA survey jurisdiction. A copy of the letter is forwarded to the SA and the accrediting organization.

However, in the event that the hospital failed to come into compliance, the SA will forward the complete survey packet (**Attachment A(C)(7)**) to the RO within 10-days. After review of the survey packet, the RO will send the hospital a final termination letter and publishes a public notice. The hospital will be terminated from the Medicare program.

SURVEY ACTIVITY

It is the general policy of CMS to conduct an Exit Conference with the hospital staff at the conclusion of a survey. It is critical that the surveyors maintain control throughout the exit conference. However, the State survey staff may elect not to conduct an exit conference if:

- The provider is represented by counsel and tries to turn it into an evidentiary hearing.
- The provider creates an environment that is hostile, overly intimidating, or inconsistent with the informal nature of the exit conference.

The surveyors should present their findings and solicit information related to their findings from the hospital staff that they want to submit for further consideration and evaluation. The surveyors should indicate their willingness to reevaluate their findings if documentary evidence is provided. The surveyors should inform the hospital staff of the timeframe when the post-survey activity is finalized. The State survey agency should reevaluate its survey findings when additional documentary evidence is provided by the hospital before the post-survey activity is finalized. The surveyor should explain the post-survey activity process to the hospital staff. If adverse action is anticipated, explain the process and the implications. It is imperative that surveyors maintain a professional demeanor and amicable attitude at all times.

If you have any questions regarding this letter, please contact Dodjie B. Guioa by telephone at 214-767-6179 or through e-mail at dguioa@cms.hhs.gov.

Sincerely,

~Signature on File~

Molly Crawshaw, Chief
Survey and Certification Operation Branch

For copies of Attachments A, B, C, or D, please direct inquiries to Health Facility Licensing and Compliance Division, Texas Department of Health at (512) 834-6648.

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