



Date: December 13, 2017

To: Assisted Living Facilities (ALFs)

Subject: Provider Letter No. 17-38 - Rule Amendments in Texas Administrative Code (TAC), Title 40, Part 1, Chapter 92, Change of Ownership

On October 11, 2017, the Health and Human Service Commission (HHSC) added new rules and amended existing rules regarding the change of ownership (CHOW) process for ALFs. The amended rules, at 40 TAC §92.2 and §92.16, simplify the process for determining whether a change of ownership requires the ALF to obtain a new license.

Under the amended rules, a CHOW occurs when the federal tax identification number of the license holder changes. When the number changes, the incoming license applicant must apply for an initial license and submit the required documents as required by [§92.12\(b\)](#), which states that an applicant must complete the application in accordance with the instructions provided with the application. The license applicant must also submit Form 3725, Licensure Change of Ownership Affidavit.

The amended rules allow HHSC to conduct a desk review, instead of an on-site health inspection, for a CHOW under certain conditions. A desk review may be conducted for a CHOW if the ALF was required to obtain a new tax identification number and:

- less than 50% of the direct or indirect ownership interest has changed; or
- every owner with a disclosable interest remains the same with the new license holder.

An ALF is not required to apply for an initial license if a CHOW structure does not result in a change in the tax identification number. However, the license holder must notify HHSC within 30 days after the addition of an owner with a disclosable interest. A license holder that is a publicly traded company is exempt from this notification requirement.

Provider Letter 17-38

December 13, 2017

2

If you have questions regarding the license application process, the CHOW process or required documents, please contact the Licensing Unit at (512) 438-2630.

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

Sincerely,

[signature on file]

Mary T. Henderson
Associate Commissioner
Long-term Care Regulatory

MTH/cg