



## Long-Term Care Regulatory Provider Letter

<b>Number:</b> PL 19-13
<b>Title:</b> Implementing NF Life Safety Code Rules
<b>Provider Types:</b> Nursing Facilities (NF)
<b>Date Issued:</b> May 22, 2019

### 1.0 Subject and Purpose

This PL is being issued in response to questions from providers on how to apply the NF Life Safety Code (LSC) rules effective April 2, 2018, in Texas Administrative Code, Title 40, Part 1 (40 TAC), Chapter 19 Nursing Facility Requirements for Licensure and Medicaid Certification, [Subchapter D Facility Construction](#). The subchapter was reorganized into several divisions so that stakeholders and surveyors can identify which rules are applicable to each facility based on the facility's date of first licensure.

This PL was also developed to ensure consistent application of the NF regulations while ensuring existing facilities are not required to comply with the LSC rules unless they are requirements imposed by federal regulation.

### 2.0 Policy Details & Provider Responsibilities

The organization of regulations in Subchapter D arranges the subchapter into divisions. Section [19.300 General Requirements](#) provides a roadmap for the application of the standards based on the date a facility, or a portion of a facility, was licensed.

#### 2.1 Rules Applicable to All Facilities

All facilities must comply with Division 1, General Provisions, §§19.300-19.301, which contains general requirements and definitions applicable solely to Subchapter D.

All facilities must also comply with Division 3, Provisions Applicable to All Facilities, §§19.323-19.326, **Facilities Licensed Before September 11, 2003**.

## **2.2 Facilities Licensed Before September 11, 2003**

A facility or a portion of a facility that was licensed **before September 11, 2003**, must comply with Division 2, §§19.302-19.322. Prior to April 2, 2018, these facilities were considered existing facilities, subject only to the regulations in §§19.300-19.326.

## **2.3 Facilities Licensed on or After September 11, 2003, and Before April 2, 2018**

A facility or portion of a facility that was licensed or constructed **on or after September 11, 2003, and before April 2, 2018**, was previously considered a new facility subject to the regulations in §§19.300-19.326, and the additional requirements for new facilities in §§19.330-19.343. Such a facility must now comply with Division 5, §§19.331-19.343.

## **2.4 Facilities Licensed on or After April 2, 2018**

A facility or portion of a facility that is **licensed or constructed on or after April 2, 2018**, must comply with Division 9, §§19.351-19.363, except as addressed in subsections 2.6 and 2.7, below.

## **2.5 Small House or Household Facilities**

A facility designed to provide a non-institutional environment to promote resident-centered care, often referred to as a Small House nursing home or a Green House nursing home, may elect to comply with §19.345, Small House and Household Facilities. A facility that elects to comply with §19.345 must comply with all the requirements of that section.

## **2.6 Construction of a New Facility**

A new facility undergoing construction on April 2, 2018, may comply with Division 5, if the facility provides evidence that construction started before April 2, 2018.

A facility that did not obtain a plan review for construction of a new facility, where the construction began on or after April 2, 2018, must comply with Division 9.

## **2.7 Building Rehabilitation**

Consult Division 8, *Building Rehabilitation*, to determine which requirements the building rehabilitation activity must meet.

## **2.8 Evidence of Construction Start Date**

Evidence of construction start date may include the issue date of a building permit. HHSC will evaluate other forms of evidence for construction start date on a case-by-case basis.

## **3.0 Background/History**

The revised NF LSC rules, effective April 2, 2018, in 40 TAC, Chapter 19, Subchapter D, Facility Construction, implement the Centers for Medicare and Medicaid Services' adoption of the 2012 editions of the National Fire Protection Association (NFPA) 101 - Life Safety Code (LSC) and NFPA 99 - Health Care Facilities Code (HCFC). Rule references to all other editions of the LSC and HSFC were replaced with the 2012 editions.

## **4.0 Attachments**

None.

## **5.0 Contact Information**

If you have any questions about this letter, please contact the Policy, Rules and Training Section by email at [PolicyRulesTraining@hhsc.state.tx.us](mailto:PolicyRulesTraining@hhsc.state.tx.us) or call (512) 438-3161.