



COMMISSIONER
Jon Weizenbaum

April 6, 2016

To: Intermediate Care Facility for Individuals with an Intellectual Disability or Related Conditions (ICF/IID) License Holders

Subject: Provider Letter No. 16-06 – New Rules Regarding Closure of an ICF/IID

On April 17, 2016, two rules regarding closure of an ICF/IID will be repealed and replaced with new rules. The new rules are Texas Administrative Code, Title 40, Part 1, (40 TAC) [§9.218, Voluntary Facility Closure and Suspension of Certified Capacity](#), and [§90.239, Notification of Closure](#).

Voluntary Closure

New [40 TAC §9.218](#) will set forth the requirements an ICF/IID program provider must comply with to voluntarily close an ICF/IID and, at the program provider's option, to request suspension of the closing ICF/IID's certified capacity for up to one year after the ICF/IID closes. For the Texas Department of Aging and Disability Services (DADS) to approve the suspension of certified capacity, the closing ICF/IID must meet certain requirements, including having a certified capacity of eight or less. To activate the suspended capacity, the program provider must submit an application for enrollment in the ICF/IID Program before the suspension period ends.

New [40 TAC §90.239, Notification of Closure](#), will require a license holder that intends to voluntarily close an ICF/IID to send, at least 60 days before the facility closes, a written notice of the license holder's intent to close the ICF/IID, including the anticipated date of closure, to DADS and the residents of the ICF/IID or their legally authorized representatives. If, for reasons beyond the license holder's control, the license holder cannot provide the notice of closure at least 60 days before the license holder anticipates closing the ICF/IID, the license holder must state in the notice the reason why a shorter time-period is necessary.

Involuntary Closure

If DADS requires an ICF/IID to close or the ICF/IID's closure is in any other way involuntary, new [40 TAC §90.239](#) will require the license holder, immediately after becoming aware that the ICF/IID is closing, to send written notice of the closure, including the date of closure, to:

- DADS, if DADS is not requiring the ICF/IID to close; and
- the residents of the ICF/IID or their legally authorized representatives.

If DADS requires an ICF/IID to close, the license holder must submit the license to DADS when the closure is final.

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Questions

If you have questions about this letter, please contact an ICF/IID policy specialist in the Policy, Rules and Curriculum Development Section of DADS Regulatory Services at (512) 438-3161.

Sincerely,

[signature on file]

Mary T. Henderson
Assistant Commissioner
Regulatory Services

MTH:cg