



COMMISSIONER
Chris Traylor

March 22, 2011

To: Adult Day Care Facilities, Assisted Living Facilities, Freestanding Hospice Inpatient Facilities, Intermediate Care Facilities for Persons with Mental Retardation or Related Conditions, and Nursing Facilities

Subject: **Provider Letter 11-13** – Ashtrays of Noncombustible Material and Safe Design

The Department of Aging and Disability Services (DADS) is issuing this letter as a reminder that if smoking is permitted in a facility, the facility must provide an ashtray of noncombustible material and safe design, and as notification that **tower and chimney-type ashtrays do not meet the requirement for an ashtray of safe design**. The attached document includes examples of these ashtrays.

Tower and chimney-type ashtrays create a fire hazard because they do not always extinguish a cigarette butt, which can lead to the ignition of other material in the tower or chimney. Even though these ashtrays may have an Underwriters Laboratory rating, DADS will not accept these ashtrays as meeting the requirement for an ashtray of safe design. The rule or code references that apply include:

Adult Day Care Facilities

Texas Administrative Code (TAC), Title 40, Part 1, Chapter 98, [§98.42\(d\)\(1\)\(F\)](#) - Smoking regulations must be established and conspicuously posted in the facility. All smoking must be supervised. Ashtrays of noncombustible material and safe design must be provided.

Assisted Living Facilities

40 TAC [§92.62\(c\)\(3\)](#) - Smoking regulations must be established, and smoking areas must be designated for residents and staff. Ashtrays of noncombustible material and safe design must be provided in smoking areas.

Freestanding Hospice Inpatient Facilities

40 TAC [§97.403\(w\)\(4\)](#) - The hospice must meet the 2000 Edition of the National Fire Protection Association (NFPA) 101, Life Safety Code (LSC), Chapter 18 (concerning new health care occupancies) and Chapter 19 (concerning existing health care occupancies).

NPFA 101 LSC 18/19.7.4(3) - Ashtrays of noncombustible material and safe design shall be provided in all areas where smoking is permitted.

NPFA 101 LSC 18/19.7.4(4) - Metal containers with self-closing cover devices into which ashtrays can be emptied shall be readily available to all areas where smoking is permitted.

Intermediate Care Facilities for Persons with Mental Retardation or Related Conditions (ICF/MR)

40 TAC [§90.74](#)(c) - Smoking policies shall be formulated and adopted by the facility. The policies shall comply with all applicable codes, regulations, and standards, including local ordinances.

Small ICF/MR (A facility with 16 or fewer resident beds)

NFPA 101 LSC 32/33.7.4.2 - Where smoking is permitted, noncombustible safety-type ashtrays or receptacles shall be provided in convenient locations.

Large ICF/MR (A facility with 17 or more resident beds)

NPFA 101 LSC 18/19.7.4(3) - Ashtrays of noncombustible material and safe design shall be provided in all areas where smoking is permitted.

NPFA 101 LSC 18/19.7.4(4) - Metal containers with self-closing cover devices into which ashtrays can be emptied shall be readily available to all areas where smoking is permitted.

Nursing Facilities

40 TAC [§19.326](#)(k) - Smoking policies must be adopted and enforced by the facility. The policies must comply with all applicable codes, regulations, and standards, including local ordinances.

NPFA 101 LSC 18/19.7.4(3) - Ashtrays of noncombustible material and safe design shall be provided in all areas where smoking is permitted.

NPFA 101 LSC 18/19.7.4(4) - Metal containers with self-closing cover devices into which ashtrays can be emptied shall be readily available to all areas where smoking is permitted.

If you have questions about the content of this letter, please contact an architect in the Architectural unit at (512) 438-2371 or a policy specialist in the Policy, Rules and Curriculum Development unit at (512) 438-3161.

Sincerely,

Veronda L. Durden
Assistant Commissioner
Regulatory Services

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Attachment

Attachment

Examples of tower and chimney-type ashtrays that do not meet the requirement for an ashtray of safe design in adult day care facilities, assisted living facilities, freestanding hospice inpatient facilities, intermediate care facilities for persons with mental retardation or related conditions, and nursing facilities:

