MEMORANDUM
Department of Aging and Disability Services
Regulatory Services Policy * Survey and Certification Clarification

TO:    Regulatory Services
       Regional Directors, Regional Program Managers, State Office Managers, Home
       and Community Support Services Agencies (HCSSAs)

FROM:  Mary T. Henderson
       Assistant Commissioner, Regulatory Services

SUBJECT: S&CC 16-11 – New Rules for HCSSAs Providing Habilitation

APPLIES TO: HCSSAs

DATE:  September 6, 2016

House Bill 4001 (84th Texas Legislature, Regular Session, 2015) added “habilitation” to the
Texas Health and Safety Code, Chapter 142, as a service that may be provided by a licensed
HCSSA. This change allows licensed HCSSAs to provide habilitation services in accordance
with HCSSA licensure standards. It does not require all entities providing habilitation services to
obtain a HCSSA license. Habilitation is not a separate category of service or a service designated
on the HCSSA license. HCSSAs providing habilitation services must comply with new and
existing requirements in 40 TAC Chapter 97.

The new habilitation rules in Texas Administrative Code (TAC), Title 40, Part 1, Chapter 97,
became effective on September 1, 2016. Habilitation is defined in 40 TAC §97.2(43) as follows:
“Habilitation services, as defined by Texas Government Code (TGC) §534.001, provided by an
agency licensed under this chapter.” Habilitation services, as defined by the TGC §534.001,
include “assistance provided to an individual with acquiring, retaining, or improving: (a) skills
related to the activities of daily living; and (b) the social and adaptive skills necessary to enable
the individual to live and fully participate in the community.”

A new rule at 40 TAC §97.202 requires a licensed HCSSA that provides habilitation services to
provide habilitation in accordance with the HCSSA licensure standards. The HCSSA also must
comply with any additional standards in 40 TAC Chapter 97, Subchapter D that apply to the
category of service designated on the HCSSA’s license under which habilitation services are
being provided.

For example, a HCSSA with the category of licensed home health (LHH) that provides
habilitation services to its clients must comply with all the minimum standards for HCSSAs in
40 TAC Chapter 97, Subchapter C, as well as those standards specific to the LHH agency in 40
TAC §97.401. A HCSSA with multiple categories of service should designate habilitation clients
under one category and adhere to the rules associated with that category.

Habilitation services may involve training clients to perform for themselves activities such as
self-care, household chores, use of adaptive equipment and health-related tasks. Some HCSSAs
may provide habilitation services to individuals with intellectual disabilities or related conditions as part of a Medicaid managed care or waiver program such as Community First Choice, Community Living Assistance and Support Services, and the Deaf Blind with Multiple Disabilities Program.

If you have questions about this memorandum or about HCSSA regulatory requirements, please contact a policy specialist in the Regulatory Services Policy, Rules and Curriculum Development section at (512) 438-3161.