



## Long-Term Care Regulatory Provider Letter

<b>Number:</b> PL 2021-17
<b>Title:</b> Description of Key Changes in Newly Adopted HCSSA Rules
<b>Provider Types:</b> Home and Community Support Services Agencies (HCSSAs)
<b>Date Issued:</b> April 22, 2021

### 1.0 Subject and Purpose

This provider letter describes the key changes made to rules governing Licensing Standards for Home and Community Support Services Agencies, which become effective April 25, 2021.

### 2.0 Policy Details & Provider Responsibilities

#### 2.1 Key Changes to the Definitions Section

Some definitions were added and revised in 26 TAC §558.2. Most notably, certain definitions were revised to incorporate processes related to the online portal called Texas Unified Licensure Information Portal (TULIP). Additionally, the definition of "palliative care" was deleted, the term "supportive palliative care" was added, the definition of "hospice services" was updated, and a definition for "controlled substance" was added.

#### 2.2 Key Changes to Reflect TULIP Updates and 3-Year License Term

##### 2.2.1 The Online Portal TULIP and Fees

The licensure process in rule reflects the transition from submission of a paper application and other information to submission via TULIP.

The transition to a three-year license term implemented HB 3193, enacted during the 86<sup>th</sup> Legislature and put into practice on January 1, 2021.

The methodology relating to the transition to a 3-year license term with a list of the updated fees have been addressed in [PL 2021-03 \(Transition to Three-year License Term and Survey Periods\)](#).

### **2.2.2 General Application**

New §558.12, relating to General Application, was developed to consolidate application requirements for all application types, which includes use of TULIP and actions when a complete application is submitted.

## **2.3 Key Changes to Abuse, Neglect, and Exploitation**

To clarify HHSC's authority to investigate abuse, neglect, and exploitation (ANE) of a client of a HCSSA, the rules in §§558.249 and 558.250 were changed to:

- reference 26 TAC Chapter 711, Subchapter A and 40 TAC Chapter 705, Subchapter A for definitions of "abuse," "neglect," and "exploitation";
- apply the definitions to §558.250; and
- add definitions for the terms "adult," "child," and "agent," while modifying the definition of "employee."

When determining whether to report ANE, an HCSSA must ensure that definitions are applied appropriately to the allegations.

## **2.4 Key Changes to Accreditation Organization**

In the former rules, accreditation organizations (AOs) were individually named and defined. The amended rules define the general term "accreditation organization" to include any AO approved by HHSC and listed on the [HCSSA Provider Portal](#) under Accreditation Agencies tab.

As of April 25, 2021, the following three accreditation organizations have current HHSC approval.

- Community Health Accreditation Partner (CHAP)

- The Joint Commission
- Accreditation Commission for Health Care, Inc. (ACHC)

## **2.5 Key Changes to Supportive Palliative Care Provisions**

Amendments were made to Subchapter H regarding hospice agencies developing staffing policies about supportive palliative care and hospice philosophy and providing related orientation to all employees and contracted staff.

The hospice agency must ensure that a client or client's legal representative, as applicable, has been informed of the potential availability of supportive palliative care options outside a hospice setting.

A provider letter with additional guidance will be forthcoming.

## **2.6 Key Changes to §558.860 and the Disposal of Controlled Substance Prescription Drugs in Different Settings**

Sections 558.860 – 558.863 were revised to group related hospice agency requirements into more accessible rule sections. This was done for ease of reading and enabled implementation of House Bill (HB) 2594, enacted during the 86th Legislature, Regular Session, 2019, that addressed the disposal of controlled substance prescriptions drugs.

- §558.860 is limited to medical supplies and durable medical equipment.
- §558.863 is limited to the provisions related to hospice short-term inpatient care.
- §§558.861 and 558.862 respectively clarify the prerequisites, circumstances, and conditions under which certain properly licensed and qualified hospice employees may dispose of a hospice client's controlled substances:
  - in the client's home or community setting, or
  - in a hospice inpatient unit.

If the hospice chooses to implement a policy to dispose of a client's controlled substance prescription drugs, each client's record must include acknowledgement of the hospice agency's policy.

## 2.7 Other Miscellaneous Changes

The following are other miscellaneous changes:

- titles of some rule sections have been revised;
- various rule provisions have been moved to other sections for clarity or deleted as redundant;
- references to the agency's name have been changed from "DADS" to "HHSC" throughout the chapter; and
- all rule references are updated to reflect the administrative transfer from 40 Texas Administrative Code (TAC) Chapter 97 to 26 TAC Chapter 558 in May 2019.

## 2.8 A HCSSA's Responsibility to Revise Policies to be Consistent with Newly Adopted Rules

Although the rules do not require an HCSSA to include references to HHSC or a particular rule citation in its policies, an HCSSA is responsible for revising its policies to be consistent with the newly adopted rules. A surveyor will only cite an outdated reference in a policy if the reference compromises the accuracy or effectiveness of the policy.

## 3.0 Background/History

The adopted rules implemented changes made to the Texas Health and Safety Code Chapter 142, and the Texas Occupations Code Chapters 56 and 57, made by SB 916 and 37, and HB 2594 and 3193, all enacted during the 86th Legislature, Regular Session, 2019.

The rules were proposed for public comment in the [December 18<sup>th</sup>, 2020](#), issue of the *Texas Register*. The proposal preamble provides an explanation of the changes. The rules are adopted in the [April 9<sup>th</sup>, 2021](#), issue of the *Texas Register*. Two of the sections (558.19 and 558.30) are adopted with changes, which are published in the April 9<sup>th</sup> issue.

## 4.0 Resources

[PL 2021-03 \(Transition to Three-year License Term and Survey Periods\)](#)

## **5.0 Contact Information**

If you have any questions about this letter, please contact the LTCR Policy and Rules by email at [LTCRPolicy@hhs.texas.gov](mailto:LTCRPolicy@hhs.texas.gov) or call (512) 438-3161.