



## Home and Community Support Services Agencies

### Frequently Asked Questions

**Updated: March 2023**

#### General FAQs Regarding HCSSAs

These Home and Community Support Services Agencies (HCSSA) Frequently Asked Questions (FAQs) are frequency questions received by LTCR (Long Term Care Regulatory) Policy and Rules.

With each new update, new questions will be identified with the date they were added. If guidance changes, it will be identified in red font as added or deleted text. Questions regarding these FAQs can be directed to LTCR Policy and Rules at 512-438-3161 or [LTCRPolicy@hhs.texas.gov](mailto:LTCRPolicy@hhs.texas.gov).

The guidance provided is based on state licensing standards and requirements governing HCSSAs in Texas Administrative Code, Title 26, Chapter 558.

**Notice to HCSSAs with Medicare, Medicaid and Contract Agreements - HCSSAs that participate in Medicare or contract for Medicaid or other programs must also follow applicable federal regulations, applicable state program rules and contracts, and policy guidance for their contracted programs, including guidance related to reimbursement requirements.**

## Resources

### **How can I access the Home and Community Support Services Agencies (HCSSA) Provider Portal?**

Answer: To access the HCSSA Provider Portal, click on the link below:

[Home & Community Support Services Agencies \(HCSSA\) | Texas Health and Human Services](#)

**<added 03/22/23>Am I responsible for reading and understanding the HCSSA regulations?**

Answer: Yes. HCSSA providers are responsible for reading and understanding the HCSSA regulations before becoming a licensed provider. In addition to the HCSSA rules, the agency is responsible for reading and understanding the various statutes, occupations codes, and OSHA and CLIA requirements.

**Where can I access the HCSSA rules?**

Answer: HCSSA rules may be accessed online in the Texas Administrative Code. The rules for HCSSAs can be found at [26 Texas Administrative Code \(TAC\) Chapter 558](#).

**How do I obtain a copy of 26 TAC Chapter 558?**

Answer: You can request a copy of the most recent version of the HCSSA rules free of cost. The instructions are listed on [Provider Letter \(PL\) 2019-02](#). To obtain a copy of the current version of a rule chapter or subchapter, you can follow the instructions on PL 2019-02 or follow the instructions below:

1. Go to the SOS's Public Document Request page: [http://texreg.sos.state.tx.us/public/pub\\_doc\\_request\\$.startup](http://texreg.sos.state.tx.us/public/pub_doc_request$.startup)
2. Click on "Agency" corresponding to the appropriate title of the TAC. (Title 26)
3. Click on "Chapters" corresponding to the appropriate agency name.
4. Click on "Chapter Request" or, "Subchapters" for a subchapter, corresponding to the appropriate chapter being requested. (Chapter 558)
5. The Chapter Request or Subchapter Request form will appear, chose the document type (Word, PDF or text). Type in your email address and click "Submit Document Request."

6. Within a few minutes, you should receive an email at the address you provided that includes a link for you to click on to access the document.
7. Click on the link in your email.
8. Default browser will open with a dialog box with downloaded file.
9. Open the zip file and save the files to your device if desired. You may find multiple documents inside the file. There will be the doc/pdf/txt of the rules, as well as any tables or charts in PDF that are associated with the rules.

### **How do I sign up for GovDelivery?**

Answer: To sign up for GovDelivery follow the instructions below:

1. Go to:  
<https://service.govdelivery.com/accounts/TXHHSC/subscriber/new>
2. Enter your email address.
3. Confirm your email address, select your delivery preference, and submit a password if you want one.
4. At a minimum, select HCSSA or your preferred topics.
5. When done, click "Submit".

### **My consultant wants to sign up for Blackboard. Can anyone sign up?**

Answer: Yes. Anyone can sign up for Blackboard. However, for all HCSSAs, the administrator and alternate administrator are required to sign up for Blackboard. A separate email is required for each person that registers. See [PL 2022-32](#), Blackboard Connect Emergency Communication System, for instructions and for staff required to sign up for each program.

## Licensing

### **Who is exempt from a HCSSA license?**

Answer: The complete list of exemptions are found in [Texas Health and Safety Code Chapter 142.003](#), Exemptions from Licensing Requirement.

The two most common exemptions are as follows:

- A physician, dentist, registered nurse (RN), occupational therapist, or physical therapist licensed under the laws of this state who provides occasional or infrequent home health services to a client in lieu of the typical or customary operations of that person's private office practice; and
- A registered nurse, licensed vocational nurse, physical therapist, occupational therapist, speech therapist, medical social worker or any other health care professional as determined by the department who provides home health services as a sole practitioner.

A few examples are as follows:

- A physician conducting occasional home visits in light of a patient's recent injury.
- A registered nurse or licensed vocational nurse providing wound care to a friend or family member without reimbursement and not representing themselves as a home health agency.
- A registered nurse that works for herself and not an agency or other entity.
- A physical therapist making a home visit to assess their patient's home environment before prescribing a home exercise plan.

**I own a pharmacy and want to hire nurses to provide infusion/intravenous therapy to clients in their homes but do not have a HCSSA license. Is a HCSSA license required to provide infusion therapy services in a client's/patient's home without providing any home health services?**

Answer: Yes. Anything that has to do with the provision of nursing services in the home requires a HCSSA license unless an exemption is met from Health and Safety Code, Chapter 142.003 relating to Exemptions from Licensing Requirement. Exemptions for a pharmacy is as follows: Section [142.003 of the Health and Safety Code Statute](#) speaks specifically to the issue mentioned:

“Sec. 142.003. EXEMPTIONS FROM LICENSING REQUIREMENT. (a) The following persons **need not be licensed** under this chapter:...(9) a **pharmacy or wholesale medical supply company that does not furnish services, other than supplies, to a person at the person's house;**”.

The complete list of exemptions are found in [Texas Health and Safety Code Chapter 142.003](#), Exemptions from Licensing Requirement.

The standards for providing home intravenous therapy can be located in [26 TAC §558.407, Standards for Agencies Providing Home Intravenous Therapy](#).

### **What categories of service are provided under a HCSSA license?**

Answer: Per [26 TAC §558.13](#), Obtaining an Initial License, the categories of service allowed under a HCSSA license are:

- Personal Assistance Services (PAS),
- Licensed Home Health Services (LHHS),
- Licensed Home Health Services with home dialysis designation,
- Licensed and Certified Home Health Services (L&CHHS),
- Licensed and Certified Home Health Services with home dialysis designation,
- Hospice Services,

- Hospice Services with an Inpatient Unit,

Agencies that are licensed and certified must also comply with the Conditions of Participation at 42 CFR Part 484 for home health and 42 CFR Part 418 for hospice.

## Agency Administration

### **What are the Administrator/Alternate Administrator qualifications for a PAS agency?**

Answer: Per [26 TAC §558.244](#), Administrator Qualifications and Conditions and Supervising Nurse Qualifications, for an agency licensed to provide PAS, the administrator and alternate administrator must meet at least one of the following conditions:

- have a high school diploma or GED (general equivalency degree) with at least one year of experience or training in caring for individuals with functional disabilities;
- have completed two years of full-time study at an accredited college or university in a health-related field; or
- met the qualifications listed in paragraph (1)(A) or (B) of this subsection (qualifications for an agency licensed to provide licensed home health services, licensed and certified home health services, or hospices services).

### **Can I use a virtual address for my business without making any changes to my Texas Unified Licensure Information Portal (TULIP) registration?**

Answer: No. Per [26 TAC §558.1 \(a\)\(2\)](#), when an agency receives a HCSSA license issued by HHSC that license authorizes the agency to perform services for each place of business from which home health, hospice, or PAS

is directed. An agency cannot have a virtual office as its place of business. It must be a permanent physical place.

If a HCSSA chooses to relocate its physical place of business to another permanent physical place of business, it must be done in accordance with [26 TAC §558.213](#) (relating to Agency Relocation) and [26 TAC §558.208](#) (relating to Reporting Changes in Application Information and Fees).

An agency must not transfer a license from one location to another without prior written notice to HHSC. If an agency is considering relocation, the agency must submit written notice to HHSC to report a change in physical location at least 30 days before the intended relocation by submitting a relocation application through the online portal.

**Can a person be employed if the person has been convicted of a crime?**

Answer: No. An employer may not employ a person when it is determined, as a result of a criminal history check, that the person has been convicted of a criminal offense that bars employment, under [Section 250.006\(a\), Health and Safety Code](#).

**Can a person be employed if the person is serving a criminal sentence, under deferred adjudication community supervision?**

Answer: No. The person would not be eligible for employment if the person is currently serving a criminal sentence, under deferred adjudication community supervision, for a criminal offense that would bar employment, under [Section 250.006\(a\), Health and Safety Code](#).

For the applicant to be serving a criminal sentence, under deferred adjudication community supervision, the criminal court judge, after receiving a plea of guilty or nolo contendere, hearing the evidence, and finding that it substantiates the person's guilt, the judge could defer further proceedings without entering an adjudication of guilt and place the defendant on deferred adjudication community supervision, under [Article 42A.101, Code of Criminal](#)

[Procedure](#). Only after the expiration of the period of deferred adjudication community supervision, will the judge order dismissal of the proceedings against the person and discharge the defendant, under Article 42A.111(a), Code of Criminal Procedure.

Therefore, the applicant must successfully complete the period of deferred adjudication community supervision and receive an order of dismissal and discharge, from the criminal court judge, in accordance with Article 42A.111 (c-1), Code of Criminal Procedure. Only upon the judge's order of dismissal or discharge of the criminal conviction, the conviction may not be considered as a bar to employment, under Section 250.006(b), Health and Safety Code.

## Client Care

### **What services are provided under the category of PAS?**

Answer: [26 TAC §558.2\(87\)](#) defines personal assistance services as, "Routine ongoing care or services required by an individual in a residence or independent living environment that enable the individual to engage in the activities of daily living or to perform the physical functions required for independent living, including respite services. The term includes:

- personal care;
- health- related services performed under circumstances that are defined as not constituting the practice of professional nursing by the Texas Board of Nursing; and
- health-related tasks provided by unlicensed personnel under the delegation of a registered nurse or that a registered nurse determines do not require delegation."



26 TAC §558.2(88) Personal care is defined as, “The provision of one or more of the following services required by an individual in a residence or independent living environment:

- bathing;
- dressing;
- grooming;
- feeding;
- exercising;
- toileting;
- positioning;
- assisting with self-administered medications;
- routine hair and skin care; and
- transfer or ambulation.”

**Can a PAS agency provide medication administration or prefill weekly pill boxes?**

Answer: No. Medication administration is not a service provided under the category of personal assistance services. Filling a pill box would be considered medication administration. Medication administration would require a registered nurse or licensed vocational nurse to administer the medications or require a registered nurse to delegate medication administration to unlicensed personnel **which a PAS cannot do**. Prefilling weekly pill boxes is not a task that a registered nurse can delegate to unlicensed personnel. A PAS agency does not hire or contract with a registered nurse to provide this service.

[26 TAC §558.2\(13\)](#) defines **assistance with self-administration of medication** as, “Any needed ancillary aid provided to a client in the client’s

self-administered medication or treatment regimen, such as reminding a client to take a medication at the prescribed time, opening and closing a medication container, pouring a predetermined quantity of liquid to be ingested, returning a medication to the proper storage area, and assisting in reordering medications from a pharmacy. Such ancillary aide includes administration of any medication when the client has the cognitive ability to direct the administration of their medication and would self-administer if not for the functional limitation.” **Administration of medication** as defined in 26 TAC §558.2(3) is, “The direct application of any medication by injection, inhalation, ingestion, or any other means to the body of a client. The preparation of medication is part of the administration and is the act or process of making ready a medication for administration, including the calculation of a client’s medication dosage; altering the form of the medication by crushing, dissolving, or any other method; reconstitution of an injectable medication; drawing an injectable medication into a syringe; preparing an intravenous admixture; or any other act required to render the medication ready for administration.”

**What are the three options of reporting allegations of abuse, neglect, and exploitation?**

Answer: Initial reports of abuse, neglect, and exploitation will now to be reported online via TULIP, email at [ciicomplaints@hhs.texas.gov](mailto:ciicomplaints@hhs.texas.gov) or by calling 800-458-9858 (available Monday – Friday, 7 a.m. – 7 p.m.). This is the initial report that is to be done immediately, meaning within 24 hours of becoming aware of the allegations per [26 TAC §558.249\(c\)](#). When reported self-reported incidents, please be sure to include the relevant information detailed in [PL 18-20](#). After initially reporting the allegations, the agency will be required to submit the Provider Investigation Report, Form 3613 per [26 TAC §558.250\(b\)](#).

**Do supervisory visits have to be conducted in person?**

Answer: Yes. With the expiration of the emergency rules on July 21, 2022, there is no flexibility for the determination of services to be deemed as essential or non-essential. HCSSA services are intended to be performed in a client's home and in-person.

**The client and/or family are refusing in-person visits (e.g., therapy visits, assessments). Are we allowed to conduct telehealth visits via zoom or telephone?**

Answer: The nature of home health and hospice services are intended to be onsite services with direct, face-to-face client contact. An agency may not conduct an initial assessment, comprehensive assessment, or reassessment via telehealth services. Telehealth or telecommunication services may be provided incidentally for those services that are non-essential for the client but may not take the place of those visits which should be conducted face-to-face.

If you are a certified home health or hospice, there are COVID-19 waivers in place. See [Coronavirus Waivers & Flexibilities](#) on the CMS website for waivers still in place.

**<added 03/22/23>I have two clients in the same household that want the same attendant to work for them. Can one attendant work for two clients in the same household.**

Answer: Yes. The HCSSA rules do not prevent an attendant from having more than one client at any time. However, you must ensure the schedules do not overlap as this will become an issue.

**<added 03/22/23>Can my family member be my paid attendant?**

Answer: The HCSSA rules do not prevent a client's family member working for the client. If your agency participates in Medicare, contract for Medicaid, or other programs, your agency must follow applicable federal regulations,

applicable state program rules and contracts, and policy guidance for the contracted programs, including guidance related to reimbursement requirements.

<added 03/22/23> **My client is authorized a certain number of hours per week. The client's family wants to pay privately for hours in addition to the authorized hours the client is already receiving. Do these private pay hours have to be documented on the care plan, plan of care, or ISP?**

Answer: Yes. If the client's assessment determined that additional or after-hours care would be necessary, the agency would need to indicate it in the client's care plan, plan of care, or ISP. Per 26 TAC §558.404 (f)(2), the ISP must include the types of services to be provided and the frequency and duration of services. Per 26 TAC §558.401(b)(2)(B), the plan of care must include all types of services required and frequency of visits.

## Infection Control

### **Are staff required to be vaccinated for COVID-19?**

Answer: Per [CMS Memo, QSO-23-02-ALL](#), all Medicare-certified home health and hospice providers and suppliers are required to comply with CMS COVID-19 vaccination requirements. However, Texas is currently not surveying for compliance with the CMS COVID-19 vaccine mandate.

### **Are HCSSAs still required to screen for COVID-19 symptoms?**

Answer: No. The COVID-19 emergency rules expired July 21, 2022. However, HCSSAs are still required to enforce their written policies that specify its client care and infection control. HCSSAs must ensure that their policies are updated to cover the following:

- infection control supplies and equipment, such as PPE (personal protective equipment), that must be addressed in the client's care plan, plan of care or individualized service plan and
- the prevention of infectious and communicable diseases.

If the agency decided to make screening of COVID-19 symptoms part of its infection control policy, the agency will have to comply with their policy.

### **Are agencies still required to report positive COVID-19 cases to their local health departments?**

Answer: Yes. HCSSAs are still required to report positive COVID-19 cases to their local health department.

### **What is the Tuberculosis (TB) requirement for HCSSAs?**

Answer: There is no regulatory requirement for a HCSSA to conduct employee TB screenings. Under 26 TAC §[558.285](#) of the Licensing Standards for HCSSAs, an agency is required to adopt and enforce written policies addressing infection control, including the prevention of the spread of infectious and communicable disease. Providers should adopt, implement, and enforce their policies and procedures, and ensure staff are trained accordingly. However, TB is a notifiable condition and a HCSSA is required to report positive cases of TB to their local health entity as must be indicated by the infection control policies and procedure. See the listing of local health entities by county at [Local Health Entities](#).

HHSC also encourages following CDC recommended guidelines. [PL 2020-25](#) speaks about recommendations for TB. For more information regarding the revised recommendations, visit the CDC website at:

<https://www.cdc.gov/tb/topic/testing/healthcareworkers.htm>

### **What categories of service can Supportive Palliative Care (SPC) be provided under?**

Answer: SPC can be provided under the categories of Licensed Home Health Services and Licensed and Certified Home Health Services. See [PL 2022-33](#), Guidance for HCSSAs Wanting to Provide Supportive Palliative Care.

## Hospice

### **Why is a certified hospice who hires a certified nurse aide (CNA) to provide hospice aide services required to follow nursing home CNA requirements?**

Answer: Per the [Code of Federal Regulations \(CFR\) §418.76 Condition of Participation: Hospice aide and homemaker services](#), "All hospice aide services must be provided by individuals who meet the personnel requirements specified in paragraph (a) [referring to hospice aide qualifications] of this section." However, this applies to HCSSAs that are a licensed and certified hospice.

Hospice aide qualifications are listed at 42 CFR §418.76 (a), Standard: Hospice aide qualifications.

Hospice aide qualifications for a licensed only hospice are located at [26 TAC §558.843, Hospice Aide Qualifications](#).

## Licensure Surveys

### **Where will the agency's survey be conducted?**

Answer: An initial licensure survey, re-licensure survey, and complaint investigation may be conducted at any location of the agency. Per [26 TAC §558.507, Agency Cooperation with a Survey](#), "An agency must provide a HHSC representative with a reasonable and safe workspace, free from hazards, at which to conduct a survey at a parent office, branch office or ADS (alternate delivery site)."