



## Long-Term Care Regulation Provider Letter

<b>Number:</b> PL 2023-11
<b>Title:</b> Cooperation with HHSC Provider Investigations
<b>Provider Types:</b> HCS, TxHmL, ICF/IID, HCSSA
<b>Date Issued:</b> April 26, 2023

### 1.0 Subject and Purpose

The purpose of this letter is to remind providers that they must cooperate with Health and Human Services Commission (HHSC) Provider Investigators (PI) who are conducting investigations of abuse, neglect, and exploitation . The provider must allow all HHSC survey staff, including PI, timely access to records and staff.

### 2.0 Policy Details & Provider Responsibilities

#### 2.1 HCS and TxHmL Requirement to Cooperate

Under certification principles,<sup>1</sup> an HCS, and TxHmL provider must cooperate with HHSC PI, during the investigation of an allegation of abuse, neglect, and exploitation. During the investigation the provider must:

- Cooperate with the PI investigation , including by providing documentation and participating in interviews conducted by HHSC PI;
- Provide HHSC PI access to sites owned, operated or controlled by the provider; access to individuals, service providers, staff members, volunteers, and controlling persons of the provider; and

<sup>1</sup> 40 TAC §9.175(e) – Certification Principles for HCS; 40 TAC §9.585(e) – Certification Principles for TxHmL;

provider records that HHSC PI determines are pertinent to the investigation; and

- Ensure the provider's staff members, service providers, volunteers, and controlling persons comply with the investigation.

## **2.2 ICF/IID Requirement to Cooperate**

In accordance with rule<sup>2</sup>, a facility must cooperate with HHSC PI, during the investigation of an allegation of abuse, neglect, and exploitation. During the investigation the provider must assist an HHSC investigator by preserving and safeguarding evidence of the alleged abuse, neglect, or exploitation and by ensuring that facility employees are made available upon request by the investigator. Additionally, a facility must make all books, records, and other documents that are maintained by or on behalf of the facility accessible to HHSC on request.

## **2.3 HCSSA Requirement to Cooperate**

In accordance with rule<sup>3</sup>, a HCSSA must cooperate with HHSC and allow an HHSC representative, including HHSC representatives investigating abuse, neglect, or exploitation, entry and access to all agency records. Additionally, a HCSSA must allow a representative of HHSC to inspect a book, record, or file required to be maintained by an agency.

## **2.4 Failure to Comply**

A provider who fails to comply with or willfully interferes with HHSC's survey or investigation activities, including the investigation of abuse, neglect, or exploitation, is subject to any applicable survey and enforcement action, including administrative penalties.

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<sup>2</sup> 26 TAC §551.212 and 26 TAC §551.191(h)(1-2)

<sup>3</sup> 26 TAC §558.507 and §558.602

### **3.0 Contact Information**

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