



Long-Term Care Regulatory Provider Letter

Number: PL 2023-15
Title: Exemptions from Licensing Requirement
Provider Types: Home and Community Support Services Agencies (HCSSAs)
Date Issued: July 12, 2023

1.0 Subject and Purpose

The purpose of this letter is to provide clarification on which individuals and organizations are exempt from the Licensing Requirement found in [Texas Health and Safety Code \(HSC\), Chapter 142](#).

2.0 Policy Details & Provider Responsibilities

2.1 Who Needs a HCSSA License?

Per Title 26 of the Texas Administrative Code (TAC) §558.1(a)(2) a person, including a health care facility licensed under Texas Health and Safety Code (HSC), [Chapter 142](#), may not engage in the business of providing home health, hospice, or personal assistance services (PAS), or represent to the public that the person is a provider of home health, hospice, or PAS for pay without a HCSSA license authorizing the person to perform those services issued by HHSC for each place of business from which home health, hospice, or PAS is directed, unless exempt from licensure, under Section 142.003, HSC.

This means, an individual or organization providing home health services to clients, in which that individual or organization has procedural control over the employees going into the clients home to provide said services, must hold a HCSSA license. The organization

providing care determines the policies and they are responsible for the services they are providing.

2.2 Who Does Not Need a HCSSA License?

The following attachment is a list of persons exempt from the requirement in Section 142.003, HSC.

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 or call (512) 438-3161.

Health and Safety Code, Section 142.003: Exemptions for Licensing Requirement

<https://statutes.capitol.texas.gov/Docs/HS/htm/HS.142.htm#142.003>

(a) The following persons are not required to obtain a HCSSA license, under Section 142.003, HSC:

(1) a physician, dentist, registered nurse, occupational therapist, or physical therapist licensed under the laws of this state who provides home health services to a client only as a part of an incidental to that person's private office practice;

(2) 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; **(i.e., Nurse Smith is a sole practitioner who provides home health services and she does not have any other employees as part of her practice.)**

(3) a registry that operates solely as a clearinghouse to put consumers in contact with persons who provide home health, hospice, habilitation, or personal assistance services and that does not maintain official client records, direct client services, or compensate the person who is providing the service; **(i.e., home health and senior care referral services.)**

(4) an individual whose permanent residence is in the client's residence; **(i.e., a friend or family member who lives with the client.)**

(5) an employee of a person licensed as a HCSSA service provider, under Chapter 142, HSC, who provides home health, hospice, habilitation, or personal assistance services only as an employee of the license holder and who receives no benefit for providing the services, other than wages from the HCSSA license holder; **(i.e., a nurse, attendant, or caregiver, who is employed by a licensed HCSSA service provider.)**

(6) a home, nursing home, convalescent home, assisted living facility, special care facility, or other institution for individuals who are elderly or who have disabilities that provides home health or personal assistance services only to residents of the home or institution; (7) a person who provides one health service through a contract with a person licensed as a HCSSA service provider, under Chapter 142, HSC; **(i.e., a nurse, attendant, or caregiver, who has a contract with a licensed HCSSA service provider.)**

(8) a durable medical equipment supply company;

(9) a pharmacy or wholesale medical supply company that does not furnish services, other than supplies, to a person at the person's house;

(10) a hospital or other licensed health care facility that provides home health or personal assistance services only to inpatient residents of the hospital or facility;

(11) a person providing home health or personal assistance services to an injured employee under Title 5, Labor Code; **(i.e., a healthcare worker providing care under the Workers' Compensation Act.)**

(12) a visiting nurse service that is conducted by and for the adherents of a well-recognized church or religious denomination and provides nursing services by a person exempt from licensing by Section 301.004, Occupations Code, because the person furnishes nursing care in which treatment is only by prayer or spiritual means;

(13) an individual hired and paid directly by the client or the client's family or legal guardian to provide home health or personal assistance services;

(14) a business, school, camp, or other organization that provides home health or personal assistance services, incidental to the organization's primary purpose, to individuals employed by or participating in programs offered by the business, school, or camp that enable the individual to participate fully in the business's, schools, or camp's programs;

(15) a person or organization providing sitter-companion services or chore or household services that do not involve personal care, health, or health-related services;

(16) a licensed health care facility that provides hospice services under a contract with a hospice; **(i.e., a hospital, skilled nursing facility, or assisted living facility)**

(17) a person delivering residential acquired immune deficiency syndrome hospice care who is licensed and designated as a residential AIDS hospice, under Chapter 248, HSC.;

(18) the Texas Department of Criminal Justice;

(19) a person that provides home health, hospice, habilitation, or personal assistance services only to persons receiving benefits under the following programs:

(A) the home and community-based services (HCS) waiver program;

(B) the Texas home living (TxHmL) waiver program;

(C) the STAR + PLUS or other Medicaid managed care program under the program's HCS or TxHmL certification; or

(D) Section 534.152, Government Code, for the delivery of basic attendant and habilitation services for individuals with an intellectual or developmental disability under the STAR + PLUS Medicaid managed care program;

(20) a person who provides intellectual and developmental disabilities habilitative specialized services under Medicaid and is:

(A) a certified HCS or TxHmL provider; or

(B) a local intellectual and developmental disability authority contracted under Section 534.105, Government Code; or

(21) an individual who provides home health or personal assistance services as the employee of a consumer or an entity or employee of an

entity acting as a consumer's fiscal agent under Consumer Directed Model, Subchapter C, Chapter 546, Government Code.

(b) A home and community support services agency that owns or operates an administrative support site is not required to obtain a separate license under this chapter for the administrative support site.

(c) A hospice that operates or provides hospice services to an inpatient unit under a contract with a licensed health care facility is not required to obtain an alternate delivery site license for that inpatient unit