



Long-Term Care Regulatory Provider Letter

Number: PL 2021-35
Title: Licensing Requirements for In-home Supportive Palliative Care
Provider Types: Home and Community Support Services Agencies (HCSSA)
Date Issued: September 15, 2021

1.0 Subject and Purpose

The 86th Legislature, Regular Session, 2019, passed Senate Bill [916](#) which became effective on June 10, 2019. The legislation created [Texas Health and Safety Code \(HSC\) Chapter 142A](#) (relating to Supportive Palliative Care), establishing a definition of "supportive palliative care" and indicating that any reference to "palliative care" in law or the Texas Administrative Code (TAC) means supportive palliative care. The statute did not establish a category of licensure for the provision of supportive palliative care services—either standalone or as a category within an existing care delivery setting.

Supportive palliative care services that are delivered in the home or in community settings, such as in assisted living facilities, are currently governed by HSC Chapter 142 (relating to Home and Community Support Services Agencies (HCSSA)). An HCSSA license is required.

2.0 Policy Details & Provider Responsibilities

2.1 Supportive Palliative Care Services

Supportive palliative care services are defined in HSC §142A.0001 as "physician-directed, interdisciplinary patient- and family-centered care provided to a patient with a serious illness **without regard** to the patient's age or **terminal prognosis** that:

- may be provided concurrently with methods of treatment or therapies that seek to cure or minimize the effects of the patient's illness; and
- seeks to optimize the quality of life for a patient with a life-threatening or life-limiting illness and the patient's family through various methods, including methods that seek to:
 - anticipate, prevent, and treat the patient's total suffering related to the patient's physical, emotional, social, and spiritual condition;
 - address the physical, intellectual, emotional, cultural, social, and spiritual needs of the patient; and
 - facilitate for the patient regarding treatment options, education, informed consent, and expression of desires” (emphasis added).

Supportive palliative care treatments focus on pain and symptom management and may be delivered in coordination with curative measures. The client profile is varied, spanning all ages and diagnoses with both terminal and chronic prognoses. The services are intended to be physician-directed, interdisciplinary, patient- and family-centered, and provided without regard to the patient’s age or terminal prognosis. Supportive palliative care and services for symptom management and pain relief have long been provided by HCSSAs with home health agency designation (home health agencies) in the community.

Home health agencies should be aware that supportive palliative care services are best delivered in systemic environments with the entire array of services concurrently available to the client and family under physician direction. Although the home health agency is not required to provide the full array of supportive palliative care services directly, it is recommended that the agency coordinate all aspects of supportive palliative care as defined. HHSC does not recommend that clients receive only portions of supportive palliative care; however, a client may choose to receive only palliative therapies or nursing services and may decline services and treatment.

2.2 Home Health Licensure Requirements

Aside from specific exemptions granted under [HSC § 142.003](#), providers of in-home supportive palliative care services must hold a HCSSA license with home health designation granted by the Health and Human Services Commission, Long Term Care Regulation Division. Supportive palliative care services share significant overlap in the service array for home health. These include nursing, therapies, medical social services, and intravenous therapies to an individual under a physician's direction. If a medical professional is not providing these in-home services incidental to an office or medical private practice, then the services must be provided under a HCSSA license with home health designation.

Home health agencies that admit clients for supportive palliative care must assess the client and family's needs and ensure coordination of care among the client's providers of supportive palliative care.

The home health agency must ensure compliance with all applicable state licensing standards including, but not limited to, staffing experience, qualifications, and training in palliative care. The home health agency must develop client care policies that are specific to palliation and symptoms management and quality assessment and performance improvement relating to supportive palliative care.

2.3 Hospice Agency Limitations

Hospice agencies must **not** admit and provide supportive palliative care to individuals who have not elected hospice or who are ineligible for hospice. Although hospice is palliative care in nature, hospice as defined in statute is a service that is not curative and is elected by patients with a limited prognosis. Further, hospice rules at 26 TAC §558.858 require that the hospice's medical director certify (and recertify if necessary) that each client's life expectancy is anticipated to be six months or less if the client's terminal illness runs its normal course.

If a client is no longer or was never eligible for hospice services, the hospice agency must not continue to provide supportive palliative care under the hospice category of HCSSA licensure. If the client and family

continue to desire supportive palliative care in-home, the hospice agency must discharge or transfer the client to a home health agency. If an HCSSA licensed as a hospice also has a home health designation, the HCSSA may continue to provide services to the client, with the client's consent, under its the home health category of services.

Likewise, a hospice agency must not admit a client who does not meet eligibility requirements for hospice. Medicare-certified hospice agencies should refer to Centers for Medicare and Medicaid Services (CMS) guidance in the [Medicare Benefit Policy Manual, Chapter 9](#) and the State Operations Manual, Appendix M for discharge requirements.

2.4 Obtaining an Appropriate HCSSA License to Provide Supportive Palliative Care in a Client's Home or Community Setting

An HCSSA licensed as a hospice only may provide supportive palliative care by adding the home health category designation to its license. To add or delete a category of service to a license, an agency must submit the appropriate application to HHSC through the online portal, [TULIP](#), at least 30 days before adding or deleting the category. The cost for an application to add a category to an existing license is \$30.

A person who wishes to obtain a separate HCSSA license to provide supportive palliative care may apply for a home health agency license through [TULIP](#) using the instructions and information on the website [How to Become a Licensed HCSSA Provider](#). The cost of an initial license is \$2,625 for a three-year license.

Many HCSSA requirements under 26 TAC Chapter 558, Subchapter C apply to both hospice and home health agencies. To ensure compliance with home health regulations at 26 TAC §558.401 (relating to Standards Specific to Licensed Home Health Services), however, a hospice agency that adds the home health category must address the differences in treatment philosophy between hospice and supportive palliative care as a curative array of services and plan of care or care plan goals. This supportive palliative care philosophy should be reflected in policies regarding client rights, admissions, assessments, and care plan or plan of care development. HCSSAs with multiple categories of services are not required to have separate QAPI

committees unless the agency is operating the categories as separate entities.

2.5 Survey and Investigation

During a survey or investigation, an HHSC Long Term Care Regulation surveyor will inquire into the nature of services delivered to a client by the agency. The surveyor will review client records, staffing records, the client list, and agency policies and procedures to ensure that services are delivered to each client under the correct category of services.

3.0 Background/History

The following sections of the Texas Administrative Code (TAC) contain licensing definitions and requirements to obtain a home health license or to add a home health category:

- Title 26, Part 1, TAC **§558.2(53), (57), (83), (122)** (relating to Definitions)
- Title 26, Part 1, TAC **§§558.11 – 558.15** (relating to Criteria and Eligibility, Application Procedures, and Issuance of a License)
- Title 26, Part 1, TAC **§558.208** (relating to Reporting Changes in Application Information and Fees)
- Title 26, Part 1, TAC **§558.219** (relating to Procedures for Adding or Deleting a Category to the License)

The relevant statutes are referenced below:

- Texas Health and Safety Code Sec. 142.006 for HCSSAs
- Texas Health and Safety Code Sec. 142A for Supportive Palliative Care

Relevant CMS references:

- Medicare Benefit Policy Manual Chapter 9 - Coverage of Hospice Services Under Hospital Insurance
- State Operations Manual Appendix M - Guidance to Surveyors: Hospice [SOM \(cms.gov\)](https://www.cms.gov)

4.0 Resources

Supportive Palliative Care Services website:

<https://www.hhs.texas.gov/services/health/palliative-care/supportive-palliative-care>

5.0 Contact Information

For questions regarding how to obtain a HCSSA license, please contact the Policy and Rules Section by email at LTCRPolicy@hhs.texas.gov or call (512) 438-3161. For questions about accessing the online licensure portal (TULIP), please contact TULIP Support by email at TULIP_Support@hhsc.state.tx.us.

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.