



Home and Community Support Services Agencies Frequently Asked Questions Updated: February 2024 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.

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](#)

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.

What department do I call for updates to my HCSSA license?

Answer: For any questions regarding updates to a HCSSA license, the Licensing and Certification department may be contacted by telephone at 512-438-2630 or via email at LTC_HCSSA_Licensing@hhs.texas.gov.

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 a HCSSA have more than one administrator or alternate administrator?

Answer: No. Each licensed HCSSA must have one administrator and one alternate administrator. Multiple administrators are not allowed. Per [26 TAC §558.243, Administrative and Supervisory Responsibilities](#), the license holder must designate an individual to serve as an administrator and another to serve as the alternate administrator.

I am trying to open a HCSSA that provides PAS. Do the administrator and alternate administrator have to be licensed?

Answer: No. For agencies that provide PAS only, the administrator and alternate administrator do not have to be licensed but have to meet the qualifications in 26 TAC §558.244 (a)(3). Administrator qualifications are located in [26 TAC §558.244, Administrator Qualifications and Conditions and Supervising Nurse Qualifications](#).

What qualifies as proof of continuing education for HCSSA administrators and alternate administrators?

Answer: Proof of continuing education for HCSSA administrators would consist of written documentation of the name of the class or workshop, the topics covered and the hours and dates of the class or workshop. Documentation of the administrator and alternate administrator's continuing education must be on file with the agency. See [26 TAC §558.260, Continuing Education in Administration of Agencies](#).

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 I use my home address as my HCSSA place of business?

Answer: Yes. You can use your home address as the HCSSA address if this will be the place of business from which home health, hospice, or PAS is directed. However, a home address cannot be the address or place of business for an inpatient hospice unit.

Title 26, Texas Administrative Code, §558.256 (q), Emergency Preparedness Planning and Implementation reads, “The agency administrator and alternate administrator must enroll in an emergency communication system in accordance with instructions from HHSC.” What is the emergency communication system?

Answer: The emergency communication system referred to in 26 TAC §558.256 (q) is the Blackboard Connect Emergency Communication System administrators and alternate administrations are required to enroll in. The Blackboard Connect Emergency Communication System will be used to send emergency and outreach notifications through email, phone, voice and text if available.

I am the administrator of two agencies. Do I need to sign up for Blackboard for each agency or just once?

Answer: You are required to sign up for each agency you are an administrator over. If you are an administrator over two HCSSAs, you will need to sign up for each agency. Blackboard does not allow you to create a username but requires the use of an email address. Due to this requirement, you will have to have a separate email address for each agency.

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.

Should there be one Quality Assessment and Performance Improvement (QAPI) report per agency or one QAPI report per category of license?

Answer: A licensed HCSSA with multiple categories of service may have one report however, the license holder must ensure the HCSSA's QAPI program plan of implementation, review, and QAPI documents address measures as appropriate for the scope of services provided by the agency.

For example, the hospice category of service for a HCSSA would not need to have outcomes, analysis, and audits in relation to the HCSSA's Personal Assistance Services (PAS) category of service in its QAPI documentation. Even though the HCSSA's QAPI Committee created one report because the QAPI program addresses all the scope of services provided by the HCSSA, each licensed category can glean the appropriate information from the report to have the documentation needed to be in compliance.

Are agencies allowed to charge clients for a copy of their medical record?

Answer: HCSSA rules do to not specifically address charging for medical records. This would be determined by agency policy.

Is each HCSSA required to have a separate space for storage of client records?

Answer: Per 26 TAC §558.301, Client Records, "The agency must establish an area for original active client record storage at the agency's place of business. The original active client record must be stored at the place of business (parent agency, branch office, or ADS [alternate delivery site]) from which services are provided."

What documents are required in personnel records?

Answer: The requirements for personnel records are located at 26 TAC §558.246. Any additional requirements will be based on agency policy.

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.”

Is Registered Nurse (RN) delegation under LHHS or PAS?

Answer: RN delegation can be provided under both categories of service. If RN delegation is to be provided under either category, the agency will have to either employ an RN or contract with the RN who is providing the delegation. The RN contracted or employed by the PAS and/or LHHS will have to follow the rules for RN delegation found in [22 TAC §225, RN Delegation to Unlicensed Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions](#). Assessment of the client by the RN must be conducted prior to delegating any nursing-related tasks. The RN is responsible for the supervision and evaluation of competency of the unlicensed personnel to whom the delegation is provided. Documentation of delegation is also required.

Can a PAS agency delegate prefilling weekly pill boxes?

Answer: No. Prefilling weekly pill boxes is not a task that a registered nurse can delegate to unlicensed personnel. Per [22 TAC §225.11 \(1\)](#), persons allowed to prefill a weekly box or daily pill reminder are the RN or a person mutually agreed upon by the RN and client or client’s responsible adult who has demonstrated the ability to complete the task properly.

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.

Can home health services be provided in a location other than the client's residence?

Answer: Yes. A HCSSA can provide services in a client's residence, an independent living environment, or another appropriate location. Texas Administrative Code, Chapter 558 defines [independent living environment](#) as a client's residence, which may include a group home, foster home, or boarding home facility, or other settings where a client participates in activities, including school, work, or church. Some payor sources such as insurance or a physician may require the services to be provided outside of the client's home.

The agency must keep in mind that any location where services are provided should take into account the client's dignity, privacy, and comfort. The HCSSA must be able to provide the services unencumbered.

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.

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.

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.

What is the difference between a plan of care and a physician's order?

Answer: The plan of care is a written plan prepared by the appropriate healthcare professional and submitted to the physician for review and approval. A physician's order is a directive or request for services to be provided for a client. The plan of care is written after receiving a physician's order and derived from the comprehensive assessment.

Title 26, Texas Administrative Code, §558.401 uses the term "appropriate health care professional" when referring to performing the initial health assessment and preparing the care plan or plan of care. What is meant by the appropriate health care professional?

Answer: The appropriate health care professional is based on what services are primarily being provided. If therapy, the corresponding therapist could conduct the initial health assessment and prepare the plan of care or care plan. If nursing services are provided, an RN must perform the initial health assessment and prepare the care plan or plan of care. Per [22 TAC §217.11 \(2\)\(A\)\(i\)](#), a Licensed Vocational Nurse (LVN) is allowed to perform focused assessments. Because the initial health assessment is a comprehensive assessment, the LVN is not allowed to conduct the initial health assessment. This is outside the scope of practice for an LVN.

What are the rules for solicitation in Chapter 558?

Answer: The TAC rules that HCSSAs must follow concerning solicitation are found in [26 TAC §558.255, Prohibition of Solicitation of Patients](#). Agencies are required to adopt and enforce a policy to ensure compliance with [Texas Occupations Code Chapter 102](#). Per [Texas Occupations Code, Chapter 102, Solicitation of Patients](#), "A person commits an offense if the person knowingly offers to pay or agrees to accept, directly or indirectly, overtly or covertly any remuneration in cash or in kind

to or from another for securing or soliciting a patient or patronage for or from a person licensed, certified, or registered by a state health care regulatory agency.”

Infection Control

Are staff required to be vaccinated for COVID-19?

Answer: [QSO-23-02-ALL](#) titled Revised Guidance for Staff Vaccination Requirements has expired. CMS published a final rule which ended the requirements related to Staff Vaccination for all provider types, effective August 05, 2023.

Is there guidance for certified agencies now that the public health emergency (PHE) has ended?

Answer: New guidance for certified home health agencies can be located in CMS Memo [QSO-23-13-ALL](#). CMS Flexibilities to Fight COVID-19 for [home health agencies](#) and [hospice](#) are located on the [CMS Coronavirus Waivers & Flexibilities](#) page. Please keep in mind these waivers apply to CMS certified agencies. A provider alert was also issued on May 10, 2023 and is posted on the [HCSSA Provider Portal](#).

HHSC issued an alert on August 21, 2023, stating CMS is no longer enforcing staff vaccination in long-term facilities. CMS has permitted memo [QSO-23-02-ALL](#) to expire retroactively to June 5, 2023. This memo's expiration is applicable to Home and Community Support Services Agencies and Inpatient Hospice.

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>

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](#).

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.

Appendix M was recently updated and released and states that using pseudo-patients is allowed for hospice aide competency. Is this allowed per Chapter 558?

Answer: No. Current rules in [26 TAC §558.701](#) do not allow the use of pseudo-patients. HHSC is in the process of revising their rule and will be addressing this.

Can hospice volunteers provide activities, such as crafts and reading books?

Answer: No. A hospice agency is certified by CMS to provide services and must comply with Conditions of Participation for Volunteers in [42 CFR §418.78](#). In (b) of that section, it states volunteers must be used in day-to-day administrative and/or direct patient care roles. It also states in (e) of that section, that volunteers must provide day-to-day administrative and/or direct patient care services in an amount that, at a minimum, equals 5 percent of the total patient care hours of all paid hospice employees and contract staff.

How often must a RN make supervisory visits for hospice aides?

Answer: Per [26 TAC §558.842\(d\)](#), “An RN must make an on-site visit to a client’s home to supervise the hospice aide services at least every 14 days to assess the quality of care and services provided by the hospice aide... The hospice aide does

not have to be present during this visit.” These supervisory visits are not the same as the annual on-site visit to observe and assess the hospice aide. Per [26 TAC §558.842\(e\)](#), “An RN must make an annual on-site visit to the location where a hospice client is receiving care to observe and assess each hospice aide while the aide performs care.”

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).”