

# **Home & Community Support Services Agencies Regulatory Compliance for Administrators November 15, 2021**

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Texas Association for Home Care & Hospice

This session covers topics outlined in HCSSA Licensure rule related to information on licensing standards and applicable state or Federal Laws, including, Texas Health & Safety Code. Chapter 142(HCSSA) and Chapter 250.(NAR and Criminal History Checks of Employees and Applicants). Rule Reference: 558.259 (c)(1), and 558.259 (c)(2),(A),(B),(C)&(G); and 558.259 (d)(2)&(4).

# **HCSSA Administrator Key Licensure Standards**

## **Part 1**

# www.Menti.com

- <https://www.mentimeter.com/s/7ef666ef5345449b15abe8b3229d85d6/fc15743158bf>
- Code: 65320521



# Texas HCSSA Administrator



# Goals

- Identify key licensing standards.
- Discuss applicable State and Federal Laws, including:
  - Texas Health and Safety Code, Chapter 142 (Home and Community Support Services) and Chapter 250 (Nurse Aide Registry and Criminal History Checks of Employees and Applicants for Employment in Certain Facilities Serving the Elderly or Persons with Disabilities);
  - Texas Human Resources Code, Chapter 102, Rights of the Elderly;
  - Occupational Safety and Health Administration requirements.

# Identify Licensing Standards

- General provisions, including purpose and scope, definitions, fees.
- Licensing Criteria, eligibility, application procedures, denial, and timeframes.
- Minimum standards for all HCSSAs, including general provisions, condition of a license, agency administration, provision and coordination of treatment of services.

# Identify Licensing Standards

- Licensure surveys, including frequency, exemptions, notice, cooperation and survey of a branch, alternate delivery site, services provided.
- The survey process, initial, personnel required, procedures (during and post).

# Identify Licensing Standards

- Enforcement actions, including penalties, court action, surrender or expiration of a license.
- Home Health Aides – Medicare Certified Agencies.
- Hospice services – State licensure rules, Medicaid and Medicare Certified requirements.

# **State and Federal Laws**

*How are they used in your  
Rules?*

# State Law References

- **Texas Administrative Code**
  - *Title 26, Part 1, Chapter 558*: Licensing Standards for Home and Community Support Services Agencies
- **Texas Human Resources Code**
  - Title 6, Chapter 102: Rights of the Elderly
- **Texas Health and Safety Code**
  - Title 2, Chapter 142: Home and Community Support Services License (HCSSA)

# State Law References

- **Texas Health and Safety Code**, continued
  - Title 4, Chapter 250: Nurse Aide Registry and Criminal History Checks of Employees and Applicants for Employment in Certain Facilities Serving the Elderly, Persons with Disabilities, or Persons with Terminal Illnesses
  - Title 4, Chapter 253: Employee Misconduct Registry
  - Texas Health and Safety Code: Chapter 181: Medical Records Privacy
  - Texas Occupations Code (NEW: targeted education)

# State Law References

- Health and Safety Code, Chapter 81 (Communicable Diseases)
- Health and Safety Code, Chapter 85 (AIDS)
- Human Resources Code, Chapter 48 (Investigations and Protective Services for Elderly Persons and Persons with Disabilities)

# Federal Law References

- OSHA Safety and Health Act (General Duty Clause)
- OSHA(Blood borne Pathogens) 1910.1030
- Family Medical Leave Act (FMLA)1993

# Federal Law References

- American with Disabilities Act (ADA) 1990
- Civil Rights Act of 1991
- Rehabilitation Act of 1993
- Health Insurance Portability and Accountability Act (HIPAA) of 1996
- Health Information Technology for Economic and Clinical Health Act
- Office of Civil Rights - Anti-discrimination Rule

# Targeted Education

- House Bill (HB) 2059 is responsible for the Human Trafficking Prevention CE requirement for select nurses (Direct Care).
- Applicable to license renewals after Sept. 1, 2020
- Education must be approved by HHSC
- Applies to LICENSED professionals
- Each professional should follow their own board rules

# Targeted Education

- For Nurses:
  - Applies to 20 hours
  - Must be completed each renewal cycle
- HHSC website for approved education:

<https://hhs.texas.gov/services/safety/texas-human-trafficking-resource-center/health-care-practitioner-human-trafficking-training>

# Occupational Safety and Health Act

## HR 15580 (OSH Act)

General Duty Clause – U.S. Code Title 29, Section 654

(a) Each **employer** --

(1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees

(2) shall comply with occupational safety and health standards promulgated under this Act.

(b) Each **employee** shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

# Employer Responsibilities OSHA

Employers have a responsibility to provide a safe workplace.

- This is a short summary of key employer responsibilities:
  - Provide a workplace free from serious recognized hazards and comply with standards, rules and regulations issued under the OSH Act.
  - Examine workplace conditions to make sure they conform to applicable OSHA standards.

# Employer Responsibilities -OSHA

- Make sure employees have and use safe tools and equipment and properly maintain this equipment.
- Use color codes, posters, labels or signs to warn employees of potential hazards.
- Establish or update operating procedures and communicate them so that employees follow safety and health requirements.
- Employers must provide safety training in a language and vocabulary workers can understand.

# Employer Responsibilities -OSHA

- Employers with hazardous chemicals in the workplace must develop and implement a written hazard communication program and train employees on the hazards they are exposed to and proper precautions (*and a copy of safety data sheets must be readily available*).

See the OSHA page on [Hazard Communication](#).

# Employer Responsibilities -OSHA

- Provide medical examinations and training when required by OSHA standards.
- Post, at a prominent location within the workplace, the [“It's the Law” poster](#), available for free from OSHA, informs workers of their rights under the Occupational Safety and Health Act. All covered employers are required to display the poster in their workplace. Employers do not need to replace previous versions of the poster.

# Employer Responsibilities -OSHA

**OSHA** encourages all employers to adopt an Injury and Illness Prevention Program. Injury and Illness Prevention Programs, known by a variety of names, are universal interventions that can substantially reduce the number and severity of workplace injuries and alleviate the associated financial burdens on U.S. workplaces.

Many states have requirements or voluntary guidelines for workplace Injury and Illness Prevention Programs. Also, numerous employers in the United States already manage safety using Injury and Illness Prevention Programs, and we believe that all employers can and should do the same.

# Employer Responsibilities -OSHA

Most successful Injury and Illness Prevention Programs are based on a common set of key elements. These include: management leadership, worker participation, hazard identification, hazard prevention and control, education and training, and program evaluation and improvement.

OSHA's Injury and Illness Prevention Programs topics page contains more information including examples of programs and systems that have reduced workplace injuries and illnesses.

# Employer Responsibilities - OSHA

- Provide employees, former employees and their representatives access to the Log of Work-Related Injuries and Illnesses (OSHA Form 300). On February 1, and for three months, covered employers must post the summary of the OSHA log of injuries and illnesses (OSHA Form 300A).
- Provide access to employee medical records and exposure records to employees or their authorized representatives.
- Provide to the OSHA compliance officer the names of authorized employee representatives who may be asked to accompany the compliance officer during an inspection.

# Employer Responsibilities -OSHA

- Not discriminate against employees who exercise their rights under the Act. See our "Whistleblower Protection" webpage.
- Post OSHA citations at or near the work area involved. Each citation must remain posted until the violation has been corrected, or for three working days, whichever is longer. Post abatement verification documents or tags.
- Correct cited violations by the deadline set in the OSHA citation and submit required abatement verification documentation.

# Employer Responsibilities - OSHA

- Report to the nearest OSHA office: workplace fatality within **8 hours**; and work-related inpatient hospitalization, amputation, or loss of an eye within **24 hours**. Call our toll-free number: 1-800-321-OSHA (6742); TTY 1-877-889-5627.
- Keep records of workplace injuries and illnesses.
- Note: Employers with 10 or fewer employees and employers in certain low-hazard industries are exempt from this requirement.

# OSHA RESOURCES

- [https://www.osha.gov/SLTC/home\\_healthcare/](https://www.osha.gov/SLTC/home_healthcare/)
  - [OSHA's Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers](#) (PDF)
  - [Occupational Hazards in Home Healthcare](#) (PDF).
  - [Home Healthcare Workers: How to Prevent Violence on the Job](#) (PDF).
  - [Respirator fit tests apply to home HCWs who have occupational exposure to TB](#). (Letter of interpretation that addresses home health)
  - [CDC Infection Control in Health Care Personnel](#)
- OSHA can help answer questions or concerns from employers and workers. To reach your regional or area OSHA office, go to the [OSHA Offices by State](#) webpage or call 1-800-321-OSHA (6742).

# OSHA – Bloodborne Pathogens

- Make Hepatitis-B Vaccine available to all employees within 10 days of employment (Use Appendix A – form statement of refusal when employee refuses).
- Establish an exposure control plan, and must be reviewed & updated annually.
- Use engineering controls to protect workers (for example, sharps boxes, biohazard disposal system).
- Enforce work practice controls.

# OSHA – Bloodborne Pathogens

- Provide personal protective equipment.
- Provide post-exposure follow up to any worker at no cost to the worker.
- Use labels and signs to communicate hazards.
- Provide information and training to employees at least annually.
- Maintain employee medical and training records.

# OSHA Healthcare Emergency Temporary Standard (ETS)

- On January 21, 2021, the President issued an Executive Order which declared that ensuring the health and safety of workers is a national priority and a moral imperative. The order directed OSHA to take action to reduce the risk that workers may contract COVID-19 in the workplace.
- OSHA has determined that employee exposure to COVID-19 presents a grave danger to workers in healthcare settings where people with suspected or confirmed COVID-19 are reasonably expected to be present.
- The deadline for compliance with the ETS was July 6, 2021, with the exception of Physical Barriers, Ventilation, and Training; the deadline for compliance with these parts of the rule was July 21, 2021.
- The ETS is to remain in effect until December 21, 2021. However, OSHA will continue to monitor trends in COVID-19 infections and deaths as more of the workforce and the general population become vaccinated and the pandemic continues to evolve. OSHA will update the ETS, as appropriate.

# Requirements of the Healthcare ETS

[1910.502\(c\)](#) – COVID-19 Plan

[1910.502\(d\)](#) - Patient screening and management

[1910.502\(e\)](#) - Standard and Transmission-Based Precautions

[1910.502\(f\)](#) - Personal protective equipment (PPE)

[1910.502\(g\)](#) - Aerosol-generating procedures

[1910.502\(h\)](#) - Physical distancing

[1910.502\(i\)](#) - Physical barriers

[1910.502\(j\)](#) - Cleaning and disinfection

[1910.502\(k\)](#) – Ventilation

[1910.502\(l\)\(1\)](#) – Screening

[1910.502\(l\)\(2\)](#) - Employee notification to employer of COVID–19 illness or symptoms

[1910.502\(l\)\(3\)](#) - Employer notification to employees of COVID–19 exposure in the workplace

[1910.502\(l\)\(3\)](#) - Employer notification to employees of COVID–19 exposure in the workplace

[1910.502\(l\)\(4\)](#) - Medical removal from the workplace.

[1910.502\(l\)\(5\)](#) - Medical removal protection benefits.

[1910.502\(l\)\(6\)](#) - Return to work

[1910.502\(m\)](#) - Vaccination

[1910.502\(n\)](#) - Training

[1910.502\(o\)](#) - Anti-Retaliation

[1910.502\(p\)](#) - Requirements implemented at no cost to employees

[1910.502\(q\)](#) - Recordkeeping

[1910.502\(r\)](#) - Reporting COVID–19 fatalities and hospitalizations to OSHA.

[1910.504](#) – Mini Respiratory Protection Program

# OSHA Vaccine and Testing Emergency Temporary Standard (ETS)

- OSHA has issued another ETS to minimize the risk of COVID-19 transmission in the workplace. The ETS establishes binding requirements to protect unvaccinated employees of large employers (100 or more employees) from the risk of contracting COVID-19 in the workplace.
- [The ETS on Vaccination and Testing](#) was officially filed in the Office of the Federal Register on November 4, 2021, and it became effective when it was published on November 5, 2021.
- The difference between the [Vaccine and Testing ETS](#) and the [Healthcare ETS](#) is that this ETS pertains to employers of multiple industries, as opposed to specifically the Healthcare industry.
- What are the compliance dates? Employers must comply with most provisions by December 5, 2021. Employers must comply with the testing requirement by January 5, 2021.

# OSHA Vaccine and Testing Emergency Temporary Standard (ETS)

## **Which employers are covered by the Vaccine and Testing ETS?**

- Private employers with 100 or more employees firm- or corporate-wide.

## **Which workplaces are not covered by the ETS?**

- Settings where any employee provides healthcare services or healthcare support services when subject to the requirements of the Healthcare ETS (§ 1910.502).

## **If an employer is covered by the ETS, does that mean all of its employees must follow the provisions of this ETS?**

- No. The requirements of the ETS do not apply to: Employees who do not report to a workplace where other individuals are present.; Employees while working from home; Employees who work exclusively outdoors.
- OSHA has stated that once the Healthcare ETS is no longer in effect, healthcare employers with greater than 100 employees covered under that ETS will need to then follow this ETS.
- Licensed and Certified agencies are expected to follow the [CMS vaccine rule](#).

# OSHA ETS Guidance

- There is a great deal of information and resources available to providers (including Templates, PDF Documents, Training Resources, Flow Charts, FAQ's, etc.) at the [OSHA Healthcare ETS Website](#) and the [OSHA Vaccine and Testing ETS Website](#).

# Polling Question

**How long are employers required to keep medical records for post exposure employees?**

- a. 5 years
- b. 7 years
- c. 10 years
- d. 30 years

# Polling Question

## **Where do you get MSDS Sheets?**

- a. You have to ask for it when purchasing from the store
- b. Make your own based on product research
- c. Online on the Distributor's website

# GUIDANCE LETTERS

## Types of Guidance & Policy Letters:

- (PL) Provider Letters – HHS
- (IL) Information Letters – HHS
- (S&CC) State Survey & Certification Clarification Memos – HHS
- (S&C) Federal Survey & Certification Letters – CMS
- (RS&C) Regional Survey & Certification Letters – CMS

# HHS Provider & Information Letters

August 2021 – Current

- November 2, [IL 2021-52](#) Payment Rates for HCS and TxHmL Effective March 1, 2022
- October 20, 2021 [IL 2021-48](#) Acceptable Documentation for a Criminal History Check
- October 15, 2021 [PL 2021-37](#) Administrator and Alternate Administrator Requirements
- September 13, 2021 [IL 2021-43](#) Update to Information Letter No. IL 20-37 Telemedicine Flexibility for Face-to-Face Reassessments
- September 15, 2021 [PL-2021-35](#) Licensing Requirements for In-home Supportive Palliative Care
- September 2, 2021 [PL 2021-33](#) Authority to enter Long Term Care Facilities
- August 13, 2021 - [PL 2021-29](#) End of Temporary Suspension of Certain LTCH Requirements During COVID-19 Outbreak

# HHS Provider & Information Letters

April 2021- August 2021

- August 5, 2021 [IL 2021-38](#) Certain COVID-19 Flexibilities Expiring for Community Attendant Services, Family Care and Primary Home Care Providers
- July 30, 2021 [IL 2021-36](#) Fiscal Year 2021 Cutoff Date for Year-end Closeout Processing
- July 22, 2021 - [PL 2021-27](#) Documenting Delivery of Non-Delegated Tasks by Unlicensed Persons
- June 11, 2021 [IL 2021-29](#) Coordination of STAR Kids Services and IDD Waiver Services
- June 8, 2021 - [PL 2021-24](#) HCSSA COVID-19 Vaccination Authority for Home Health and Hospice Agencies
- April 23, 2021 - [PL 2021-18](#) Requirement to Request an Initial Survey Within Six Months After Issuance of an Initial License
- April 22, 2021 [PL 2021-17](#) Description of Key Changes in Newly Adopted HCSSA Rules

# State, Regional & Federal Letters/Memos

- **HCSSA Federal Survey and Certification Letters:**  
[Advanced Copy- Appendix Z](#), Emergency Preparedness Final Rule Interpretive June 02, 2017- Guidelines and Survey Procedures.
- **State Survey and Certification Clarification (S&CC) Memos:**
  - September 16, 2016 - [S&CC 16-11](#) – New Rules for HCSSAs Providing Habilitation.
- **Regional Survey and Certification (RS&C) Letters:**
  - May 16, 2014 - RS&C -14-02 – Guidance for processing non-compliance with State licensure requirements.

# **HHS Provider & Information Letters; State, Regional & Federal Letters/Memos**

**Subscribe and find:**

<https://apps.hhs.texas.gov/providers/hcssa/>

# HHSC HCSSA Training Initiatives

- “To provide educational opportunities to enhance services across the state, Texas Health and Human Services develops and provides free training. Training initiatives are based on needs of service providers, people receiving services and supports, and emerging and best practices.”
- [Educational Opportunities](#) include Home Health or Hospice Pre-Survey Computer Based Training, [Joint Training](#) (Topics include infection control, emergency preparedness, plan of care, incident reporting, managing complaints, etc.), and OASIS Training.

# TEXAS LICENSING STRUCTURE



# TEXAS LICENSING STRUCTURE

- Umbrella license with opportunity to define categories of home health care services.
- Legal entity (“Doing Business As”), National Provider Identifier and Tax Identification.
- How to Establish “*Separateness of Entities*”
- Define boundaries and segregate lines of business and services;
- Distinguish services by category of licensure, whether they are on the same license umbrella or different licenses under one ownership;

# TEXAS LICENSING STRUCTURE

- Segregate other services offered not defined by rule definition that may not be subject to applicable state or federal home care or hospice rules.
- Maintain records and evidence that provides clarity to surveyors, auditors, consumers and staff.

# SEPARATE ENTITY GUIDANCE LETTERS

[Section 2183](#) - Separate Entities (Separate Lines of Business) in CMS State Operations Manual (SOM)

[PL 17-35](#) - Determination of Separate Entities  
(Replaces PL 01-46 & PL 02-05)

# Key Regulations- §558.2 Definitions

(4) **Administrator** – The person who is responsible for implementing and supervising the administrative policies of a HCSSA and for administratively supervising the provision of all services to agency clients on a day-to-day basis.

(67) **License holder** — A person that holds a license to operate and agency.

(120) **Supervising nurse** — The person responsible for supervising skilled services provided by an agency and who has the qualifications described in [§558.244\(c\)](#) of this chapter (relating to Administrator Qualifications and Conditions and Supervising Nurse Qualifications). This person may also be known as the director of nursing (DON) or clinical manager.

# Key Regulations- §558.2 Definitions

(28) **Client** – An individual receiving home health, hospice, or personal assistance services from a licensed HCSSA. This term includes each member of the primary client's family if the member is receiving ongoing services. This term does not include the spouse, significant other, or other family member living with the client who receives a one-time service (for example, vaccination) if the spouse, significant other, or other family member receives the service in connection with the care of a client.

# Key Regulations- §558.2 Definitions

(66) **LAR** - Legally authorized representative. A person authorized by law to act on behalf of a client with regard to a matter described in this chapter, and may include a parent of a minor, guardian of an adult or minor, managing conservator of a minor, agent under a medical power of attorney, or surrogate decision-maker under Texas Health and Safety Code, [§313.004](#).

# Key Regulations - §558.2 Definitions

(20) **Care plan** – (A) a written plan prepared by the appropriate health care professional for a client of the HCSSA; or (B) for home dialysis designation, a written plan developed by the physician, registered nurse, dietitian, and qualified social worker to personalize the care for the client and enable long- and short-term goals to be met.

(62) **Individualized service plan** – A written plan prepared by the appropriate health care personnel for a client of a HCSSA licensed to provide personal assistance services.

(96) **Plan of care** – The written orders of a practitioner for a client who requires skilled services.

# Key Regulations - §558.2 Definitions

(37) **Day** – Any reference to a day means a calendar day, unless otherwise specified in the text. A calendar day includes weekends and holidays.

(129) **Working day** – Any day except Saturday, Sunday, a state holiday, or a federal holiday.

# Key Regulations - §558.2 Definitions

(29) **Clinical note** — A dated and signed written notation by agency personnel of a contact with a client containing a description of signs and symptoms; treatment and medication given; the client's reaction; other health services provided; and any changes in physical and emotional condition.

(99) **Progress note** — A dated and signed written notation by agency personnel summarizing facts about care and the client's response during a given period of time.

# Polling Question

How many days does a HCSSA have to write a clinical or progress note and make it part of the client record?

- a. 5 days
- b. 7days
- c. 14 days
- d. 30 days

- 558.301 (a) (9) (D) clinical and progress notes. Such notes must be written the day service is rendered and incorporated into the client record within 14 working days.

# Key Regulations - §558.2 Definitions

(43) **Disaster** — The occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or man-made cause, such as fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, epidemic, air contamination, infestation, explosion, riot, hostile military or paramilitary action, or energy emergency. In a hospice inpatient unit, a disaster also includes failure of the heating or cooling system, power outage, explosion, and bomb threat.

# Key Regulations - §558.2 Definitions

(38) **Deficiency** — A finding of noncompliance with federal requirements resulting from a survey.

(58) **IDR** -Informal dispute resolution. An informal process that allows an agency to refute a violation or condition-level deficiency cited during a survey.

(99) **Presurvey conference** — A conference held with HHSC staff and the applicant or the applicant's representatives to review licensure standards and survey documents, and to provide information regarding the survey process.

(126) **Violation** — A finding of noncompliance with Chapter 558 or the statute resulting from a survey.

# TULIP – Licensure Activities

Providers will conduct all of their licensure activities in TULIP, including, but not limited to:

- Submitting initial applications, renewal applications, and change-of ownership notices
- Making electronic payments
- Submitting resident death reports
- Accessing the status of licensure applications and
- Sending and receiving notifications and updates to HHSC related to the licensure process.

# Time Frames for Applications

An application from an agency for an initial or renewal license or a change of information license is processed in accordance with specific time frames:

- Upon receipt of a thoroughly complete application in TULIP, the HHS/HCSSA Licensing unit has up to 45 days to process the application.
- If HHS/HCSSA Licensing unit receives an incomplete application, the HHS/HCSSA Licensing unit will notify the HCSSA via TULIP of any deficient items in the application. The applicant must respond with complete and correct information within 30 days from the date of notification or the application will be denied.

# Key Regulations – Conditions of a License

## [§558.208](#) Reporting Changes

*All changes must be made using the Texas Unified Licensure Information Portal (TULIP) online licensure application system.*

- ✓ [TULIP Online Licensure Application System](#)
- ✓ [Provider Letter](#)
- ✓ [Tulip Training Guide](#)

# Key Regulations – Conditions of a License

## §558.208 Reporting Changes

- Relocation (physical location).
- Service area (expand or reduce).
- Contact information (telephone, fax, or email address) and operating hours.
- Name change (legal entity or doing business as).
- Organizational change (management personnel).
- Category of service (add or delete).

# Key Regulations – Conditions of a License

## [§558.208 Reporting Changes](#)

- \$0-No fee or enforcement if timely:  
Operating hours; Telephone number or mailing address; Alternate Administrator; Certification (withdrawal).
- \$30.00 fee (for one or more changes) if timely:  
Physical address; Name change; Organizational; Category and service area.
- \$100.00 late fee, plus the \$30.00 (if applicable) for any change submitted late.

# Key Regulations – Conditions of a License

## [§558.210 Agency Operating Hours](#)

- An agency must adopt and enforce a written policy identifying the agency's operating hours.
  - For this section, the person in charge means the administrator, the designated alternate administrator, the supervising nurse, or the alternate supervising nurse.
- If an agency is closed during the agency's operating hours or between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, the person in charge must:
  - post a notice in a visible location outside the agency that will provide information regarding how to contact the person in charge; and
  - leave a message on an answering machine or similar electronic mechanism that will provide information regarding how to contact the person in charge.

# Key Regulations – Conditions of a License

## [§558.211 Display of License](#)

- The license must be displayed in a conspicuous place in the designated place of business. If the information on the license is officially amended during the licensure period, a notice must be posted beside the license to provide public notice of the change.

# Key Regulations – Conditions of a License

- [§558.213](#) Agency Relocation
  - ✓ 30-day prior notice, unless granted on exception
  - ✓ Immediately if unexpected situation beyond agency control.
  - ✓ Exempt when temporary relocation due to effects of an emergency or disaster, as specified in §558.256(o).
  - ✓ Fee \$30.00 (\$130.00 if late).
  - ✓ Change notification from HHS must be posted beside license.
- [§558.214](#) Agency Contact Information (telephone & mailing address) and Operating Hours
  - ✓ No later than 7 days after a change in telephone number or mailing address (if different from physical location).
  - ✓ Agency must notify HHSC no later than 7 days after a change in operating hours.
  - ✓ No fee when timely (\$100.00 if late).

# Key Regulations – Conditions of a License

[§558.215](#) Agency Name Change (Legal entity or Doing Business As (DBA) with no Change of Ownership)

- ✓ No later than 7 days after the effective date
- ✓ Fee \$30.00 (\$130.00 if late).
- ✓ Change notification from HHS must be posted beside license.

[§558.216](#) Certification Status (withdrawal from Medicare Program)

- ✓ No later than 5 days after voluntarily or involuntarily termination from the Medicare Program. (Permanent closure see- §558.217).
- ✓ Any other license category(ies) remain, unless no longer wish to operate.
- ✓ No fee and no late fee, however subject to enforcement actions, including administrative penalties.

# Key Regulations – Conditions of a License

## §558.218 Agency Organization (management personnel)

- ✓ No later than 7 days after the date of change in:
  - Administrator
  - Alternate Administrator
  - Chief Financial Officer
  - Controlling Person (Defined at 558.2)
- ✓ Notified only if person does not qualify (can be at least 30 days from date received).
- ✓ Fee \$30.00 (\$130.00 if late) except for Alternate Administrator (no reporting fee, only late fee will apply).

# Key Regulations – Conditions of a License

## §558.219 Adding or Deleting a Category

- At least 30 days before the addition or deletion.
- Must not provide a new category before receiving approval (HHS must review not later than 30 days from date received).
- May conduct a survey after the approval.
- Fee \$30.00 (\$130.00 if late).
- Change notification from HHS must be posted beside license.

# Key Regulations – Condition of a License

## §558.220 Service Area

- ✓ At least 30 days before expanding.
- ✓ 10 days after reducing.
- ✓ Fee \$30.00 (\$130.00 if late).
- ✓ Change notification from HHS must be posted beside license.

# Key Regulations – Condition of a License

## §[558.220](#) Service Area

- An agency is exempt from the requirement to submit notice to HHS no later than 30 days before the agency expands its service area if HHS determines an emergency situation exists that would affect client health and safety.
- An agency must notify HHS immediately of a possible emergency situation that would affect client health and safety.
- HHS grants or denies an exemption from the 30-day notice requirement.
- If HHS grants an exemption, the agency must submit notice to HHS, as described at §558.220(e), no later than 30 days after the date HHS grants the exemption.

# Key Regulations – Condition of a License

## §558.220 Service Area

- If HHS denies an exemption, the agency may not expand agency's service area until at least 30 days after the agency submits the notice to HHS as described at §558.220(e).
- Exempt from the requirements at §558.220 (c)-(f) of this if a temporary expansion results from an emergency or disaster, as specified in §558.256(o) relating to Emergency Preparedness Planning and Implementation.
- An agency may provide services to a client outside the agency's licensed service area but within the state of Texas. For an agency licensed to provide hospice services, the additional standards in §558.830 of this chapter (relating to Provision of Hospice Core Services) applies.

# Key Regulations – Condition of a License

## §558.220 Service Area

- The agency may provide the services for no more than 60 consecutive days unless the agency expands its service area as described in subsections §558.220 (e) and (f), except notice must be made no later than the 60th day to comply and avoid a late fee.
- The client must reside in the agency's service area and be receiving services from the agency at the time the client leaves the agency's service area.
- The agency must maintain compliance with the statute and this chapter and, if applicable, federal home health and hospice regulations.

# Key Regulations – Condition of a License

## §558.220 Service Area

- The agency must document in the client record the start and end dates for the services.
- An agency's ability to provide services to a client outside its service area may depend on regulations or requirements established by the client's private or public funding source, including a health maintenance organization or other private third-party insurance, Medicaid (Title XIX of the Social Security Act), Medicare (Title XVIII of the Social Security Act), or a state-funded program. The agency is responsible for knowing these requirements.

# Key Regulations – Condition of a License

## §558.220 Service Area

- If a client notifies an agency that the client is leaving the agency's service area and the agency does not provide services in accordance with §558.220(j), agency must inform client that leaving its service area will require the agency to:
  - place services on hold in accordance with the agency's written policy required by §558.281 relating to Client Care Policies, until the client returns to the agency's service area;
  - transfer and discharge in accordance with §558.295 relating to Client Transfer or Discharge Notification Requirements, and the agency's written policy required by §558.281; or
  - discharge in accordance with §558.295 and the agency's written policy required by §558.281.

# HHSC Transition to a 3 Year License Term

- On January 22, 2021, HHSC released [PL 2021-03](#) which details the transition to a 3 year license term and survey periods.
- The Texas State 86th Legislature, Regular Session amended Texas Health and Safety Code Chapter 142, Section 142.006 to mandate a three-year license period for HCSSAs.
- HHS anticipates adoption of new and amended rules in Title 26, Chapter 558 of the Texas Administrative Code in Spring 2021.
- Whether an agency is transitioned immediately to a 3 year license term or stays in a 2 year license term is dependent on the agency license number.
- By January 1, 2023, all HCSSA licenses issued by HHSC will be for a three-year license term.

# Polling Question

Am I required to notify HHSC of a change in Supervising Nurse?

A. Yes

B. No

# Polling Question

I can provide services to a client outside of my service area anytime for 60 days (or longer) if I notify HHSC before the 60th day.

- A. True
- B. False

# Questions?

