5B. Dispelling Urban Legends of Compliant Home Health Plans of Care and Documentation

Presented by:

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TAHC&H Survey Preparedness Workshop

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Agenda

1. A Look at Top Deficiencies
2. Urban Legends
3. Documentation
4. Discussion
Let’s Look at Some Facts

Texas Home Health Agency Statistics

- Nationwide, Texas accounts for **17% of all** certified home health agencies.
- During FY 2022, HHSC imposed 527 administrative penalties against HCSSA’s.
- During FY 2022, HHSC **revoked 39** HCSSA licenses
  - Texas Health and Human Services

<table>
<thead>
<tr>
<th>HCSSA Counts for FY 2018 and FY 2022</th>
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<tbody>
<tr>
<td><strong>Agency Type</strong></td>
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<tr>
<td>Home health and hospice parents</td>
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<tr>
<td>Home health branches</td>
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<tr>
<td>Alternate delivery sites</td>
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<tr>
<td><strong>Totals</strong></td>
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Numbers of providers up, across the board, from 2021.
Texas Licensed Agency Top Citations

Per LTCR Annual Report March 2023

• In the annual report, the top 10 Citations for both licensed as well as licensed and certified agencies are listed.
• The following slides reflect the top violations for licensed only agencies.

10 Top Violations Cited During Inspections: 2022

1. QAPI Assessment/Performance Improvement *(Ranked No. 1 in 2021).*
   • The agency failed to have, implement, and review QAPI program consistent with state requirements.

2. Self-Reported Incidents of Abuse, Neglect, and Exploitation *(Ranked No. 3 in 2021).*
   • The agency failed to immediately report within 24 hours, knowledge of an alleged act of abuse, neglect or exploitation of a client by an agency employee, contractor, or volunteer, to the Texas Department of Family and Protective Services and to HHSC.
Top 10 Violations Cited During Inspections: 2022

3. **Verify Employability/Use Unlicensed Personnel** *(Ranked No. 4 in 2021)*.
   - The agency failed, after the initial verification of employability, to search the nurse aide and employability misconduct registries at least every 12 months for an unlicensed employee with face-to-face client contact who was most recently hired on or after September 1, 2009.

4. **Continuing Education in Agency Administrator** *(Ranked No. 6 in 2021)*.
   - The agency’s administrator or alternate administrator failed to complete 12 hours of continuing education in the required topics within each 12 months in that job as required for the position of the administrator or alternate administrator of the agency.

Top 10 Violations Cited During Inspections: 2022

5. **Personal Assistance Services** *(Not ranked in 2021)*
   - The agency failed to make sure the files of clients receiving personal assistance services included a properly developed individualized service plan that had all the required elements.

6. **Quality Assessment/Performance Improvement** *(Ranked No. 7 in 2021)*.
   - The agency failed to make sure its quality assessment and performance improvement committee met at least twice a year to address identified problems and concerns in service delivery.
Top 10 Violations Cited During Inspections: 2022

7. **Agency Cooperation with a Survey** *(Ranked No. 9 in 2021).*
   - The agency failed to consent to entry and survey by an HHSC (Health and Human Services Commission) surveyor to verify compliance with the statue or this chapter.

8. **[TIED] Staffing Policies** *(Ranked No. 8 in 2021)*
   - The agency failed to enforce staffing policies that governed all staff used by the agency, including employees, volunteers and contractors.

9. **[TIED] Verify Employability/Use Unlicensed Personnel** *(Not ranked in 2021).*
   - The agency employed an unlicensed person with face-to-face client contact before it searched the nurse aide and employee misconduct registries or employed an unlicensed person who was listed in either registry as unemployable.

10. **Infection Control** *(Not ranked in 2021)*
    - The agency failed to have written policies to control infections and communicable diseases to ensure staff met certain Occupational Safety and Health Administration requirements.
Addressing Urban Legends

Urban Legend:

• “An often-lurid story or anecdote that is based on hearsay and widely circulated as true Called also urban myth”.
  – Merriam Webster dictionary, 04.21.2023

• “A modern story of obscure origin and with little or no supporting evidence that spreads spontaneously in varying forms and often has elements of humor…”
  – Dictionary.com, 4.21.2023
Urban Legend #1

- “If I hire the right people, my agency will just run itself.”

Myth Busters:
- The administrator is responsible for the day-to-day operations of the agency.

Agency Management Responsibilities

**Documentation:** The license holder must ensure that all documents submitted to HHSC, or maintained by the agency pursuant to this chapter, are accurate and do not misrepresent or conceal a material fact.

- *Texas Administrative Code, Title 26, Part 1, Subchapter 558, Subchapter C, Division 3, Rule 558.241 (c)*
Supervising Nurse Responsibilities §558.243

The Supervision nurse or alternate supervising nurse must:
• Always be available to agency personnel, in person or by telephone;
• Participate in activities relevant to services furnished, including the development of qualifications and assignment of agency personnel.
• Ensure that a client’s plan of care or care plan is executed as written and
• Ensure that an appropriate health care professional performs a reassessment of a client’s needs:
  • When there is a significant health status change in the client’s condition
  • At the physician’s request or
  • After hospital discharge

Urban Legend #2

• “We can just add [diagnoses/services/treatments/etc.] on the plan of care. If the doctor or provider signs it, it means they agree, and we are covered.”

Myth Busters:
• All diagnoses used must be supported by provider documentation for this encounter/admission.
• The assessing RN should have full understanding of the patient’s status and care needs. This may require contact with the physician(s) to query or obtain clinical records to identify the correct diagnoses.
Urban Legend #3

• “Checking the boxes in the assessment is all I need; all that other stuff takes too long.”
  • RN does not need to document the same information repeatedly
  • Supporting comments ensure the full clinical picture of the patient’s status and needs.
    – Think “as evidenced by”
  • Full head to toe assessment, including skin
  • Take a health history from the patient and/or caregiver
  • Collaborate with the physician on reported diagnoses not in provider documentation.

HHSC: Care Plan Definition

Definition 21: **Care Plan**—

A. A written plan prepared by the appropriate health care professional for a client of the home and community support services agency; 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.
  – Texas Administrative Code, Title 26, Part 1, Chapter 558, Subchapter A, Rule 558.2.
HHSC: Client Record Contents

Each client record must include the following:

A. Client application for services including, but not limited to, the following information:
   • The client’s full name
   • Sex
   • Date of birth
   • The name, address, and telephone number of each parent or legal guardian of a minor child.
   • The name, address, and telephone number of any other person; as identified by the individual.
   • The physician’s name and telephone numbers, including emergency numbers; and
   • Services requested

B. Initial health assessment, pertinent medical history, and subsequent health assessments

C. Care plan, plan of care, or individualized service plan, as applicable
   • The care plan or the plan of care must include, as applicable, medication, dietary, treatment and activity orders.
   • An individualized service plan for a personal assistance service client must comply with §558.404 of this chapter (relating to Standards Specific to Agencies Licensed to Provide Personal Assistance Services).
   • A plan of care for a hospice client must comply with 558.821 of this chapter.

Texas Administrative Code, Title 26, Part 1, Chapter 558, Subchapter C, Rule 558.301, Client Records.

(Clinical record contents regulation continues) - see Texas Administrative Code for complete list.
Texas Administrative Code §558.401

- Subchapter D outlines additional standards specific to Licensed HH Services.
- The agency must accept a client based on a reasonable expectation that the client’s needs can be adequately met in the client’s residence.
  - The agency and client should agree on what needs the agency would meet.
- The initiation of licensed home health services must be based on the client’s health service needs.
- An initial assessment must be performed in the client’s residence by the appropriate health care professional prior to or at the time that licensed home health services are initially provided to the client.
  - This assessment must determine whether the agency can provide the necessary services.

Texas Administrative Code §558.401

- If a practitioner has not ordered skilled care for a client, the appropriate health care professional must prepare a care plan.
- If a practitioner orders skilled treatment, then the appropriate health care professional must prepare a plan of care.

What is the difference between a care plan and a plan of care?
§558.401 Unskilled Care Plan Requirements

- Must be developed after consultation with the client and client’s family.
- Must include:
  - Services to be rendered
  - Frequency of visits or hours of service
  - Identified problems
  - Method of intervention
  - Projected date of resolution
- Must be reviewed and updated by all appropriate staff members involved in client care at least annually.
  - More often as necessary to meet the needs of the client

§558.401 Unskilled Care Plan Requirements

- Must be signed and approved by a practitioner in a timely manner
- Must be developed in conjunction with agency staff
- Must cover:
  - All pertinent diagnoses
  - Mental status
  - Types of services and equipment required
  - Frequency of visits at the time of admission
  - Prognosis
  - Functional limitations
  - Activities permitted
  - Nutritional requirements
  - Medications and treatments
  - Any safety measures to protect against injury and
  - Any other appropriate items
§558.401 Unskilled Care Plan Requirements

- The appropriate health care personnel must perform services as specified in the plan of care.
- The plan of care must be revised as necessary, but it must be reviewed and updated at least every 6 months.

§558.401 PAS Service Plan Requirements

- PAS Client Files must include (in addition to the Client Record requirements):
  - Documentation of determination of services based on an on-site visit by the supervisor where services will be primarily delivered and records of supervisory visits if applicable.
  - Individualized service plan developed, agreed upon, and signed by the family and the agency.
§558.401 PAS Service Plan Requirements

- The Individualized Service Plan must include:
  - Types of services, supplies, and equipment to be provided
  - Location of services
  - Frequency and duration of services
  - Planned date of service initiation
  - Charges for services rendered if the charges will be paid in full or in part by the client or significant other(s), or on request.
  - Plan of supervision and
  - Documentation that the services have been provided according to the individualized service plan.

Urban Legends and Documentation
How to Avoid Urban Legends:

• Rely on facts and best practices
• Ask “where do/did you find that information or regulation?”
• Refer to, and follow, agency policies
• Ensure working knowledge of (including but not limited to):
  • Scope of license
  • Legalities related to documentation
  • Benefits coverage guidelines
  • Billing guidelines
  • Proper use of EMR functionality

Best Practices Documentation for Top Violations

Care Plan, Plan of Care and Service Plan

• Care Plan, Plan of Care, and Service Plan
Best Practices Documentation for Top Violations

QAPI

- Be able to show the surveyor evidence of QAPI program compliance.
  - Program is implemented by a QAPI committee that meets at least twice a year.
  - Program is focused on measurable client outcomes
  - QAPI Committee has reviewed and updated or revised the plan of implementation at least once a calendar year (more if warranted).
  - Ensure QAPI program is complaint with scope of service requirements listed at TAC §558.287.

Best Practices Documentation for Top Violations

Self-reporting (per 26 TAC §558.249)

- If an agency has cause to believe that a client served by the agency has been abused, neglected, or exploited by an agency employee, the agency must report the information immediately, meaning within 24 hours to:
  - The Department of Family and Protective Services (DFPS) at 1-800-252-5400 or through the secure website and
  - HHSC at 1-800-458-9858
Self-reporting (per 26 TAC §558.249) HHSC Options

- There are now three options for agencies to self-report initial reports of abuse, neglect, and exploitation of a client. Initial reports of abuse, neglect, and exploitation can be reported:
  - Online via TULIP,
  - Email at ciicomplaints@hhs.texas.gov or
  - By calling 800-458-9858 (available Monday - Friday, 7 a.m. - 7 p.m.)
- This is the initial report that is to be done immediately, meaning within 24 hours of becoming aware of the allegations per 26 TAC §558.249(c). When reported self-reported incidents, please be sure to include the relevant information detailed in PL 18-20. After initially reporting the allegations, the agency will be required to submit the Provider Investigation Report, Form 3613 per 26 TAC §558.250(b).

Verifying employability, Staffing

- Be sure you have a criminal background check that is compliant
- Be sure nurse aide registry check is completed prior to face-to-face contact with a client, and at least every 12 months thereafter.
- Be sure employee misconduct registry is searched prior face-to-face contact with a client, and at least once every 12 months thereafter.
- Review complete requirements for verification of employability at TAC §558.247.
Best Practices Documentation for Top Violations

Administrator Requirements

• Must be a licensed physician, RN, licensed social worker, licensed therapist, or licensed nursing home administrator with
• at least one year of management or supervisory experience in a health-related setting (see TAC §558.244 for list of qualifying settings).
• Must have a designated (in writing) alternate administrator that meets the qualifications above.

Best Practices Documentation for Top Violations

Administrator Responsibilities – Must

• Be responsible for implementing and supervising the policies and operations of the agency.
• Be responsible for administratively supervising provision of all services to the agency on a day-to-day basis.
• Manage the daily operations of the agency
• Organize and direct the agency’s ongoing functions
• Administratively supervise the provision of quality care to clients
• Supervise to ensure implementation of agency policies and procedures.
• Ensure that the documentation of services provided is accurate and timely.
Best Practices Documentation for Top Violations

Administrator Responsibilities – Must

- Employ or contract with qualified personnel
- Ensure adequate staff education and evaluations, according to requirements in TAC §558.245(b) related to staffing policies.
- Ensure the accuracy of public information materials activities
- Implement an effective budgeting and accounting system that promotes the health and safety of the agency’s clients.
- Supervise and evaluate client satisfaction survey reports on all clients served.
- Must be available to agency staff, in person or by telephone, during agency operating hours (administrator or alternate administrator.

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Administrator Responsibilities – Must

- Designate in writing an agency employee who must provide HHSC surveyors entry to the agency if the administrator or alternate is unavailable.
- Designate, in writing, a qualified supervising nurse and an alternate supervising nurse.

- This is not an all-inclusive list-please refer to TAC §558.243
Best Practices Documentation for Top Violations

Infection Control

• Be sure you have and enforce written policies addressing infection control prevention and spread.
• Ensure your policies comply with THSC regulations and OSHA regulations.
• Document infections that the client acquires while receiving services from the agency.
• Full regulation is noted at TAC §558.285 for different levels of service.

Urban Legends of Care Plan and Documentation

Closing Thoughts

• What kind of documentation do you have that will demonstrate compliance with these regulations?
• Be sure this documentation is well organized, up to date, and easy to locate if the surveyor walks in today.
What Questions Do You Have?

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CALL 800.949.0388 or
VISIT SimiTreeHC.com
Additional Information and Resources

Resources Used For This Presentation


2. Dictionary.com: [https://www.dictionary.com/browse/urban-legend](https://www.dictionary.com/browse/urban-legend)

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