

TEXAS SURVEY REQUIREMENTS



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This information is intended to provide an abbreviated version of the specific Texas policy and procedure requirements in preparation for an ACHC Medicare certification and recertification survey. ACHC will complete a review of following policies and procedures as well as the additional ACHC required policies and procedures. For a complete listing of the Texas regulations, visit www.dads.states.tx.us.

TEXAS POLICY REQUIREMENTS:

All Texas state specific policies must be available for the Surveyor to review once they arrive on-site. Please flag policies for review.

§97.255 Prohibition of Solicitation of Patients

In the state of Texas ACHC will verify written policies and procedures address:

- The agency has adopted a written policy to ensure compliance of the agency and its employees and contractors with the Texas Occupations Code, Chapter 102 (relating to Solicitation of Patients).
For the purpose of this section a patient is considered to be a client.

§97.291 Agency Dissolution

In the state of Texas ACHC will verify:

- The agency has adopted written policies that describes the agency's written contingency plan.
- The plan must be implemented in the event of dissolution of the agency to assure continuity of client care.
- The plan must:
 - » Be consistent with §97.295 of this title (relating to Client Transfer or Discharge Notification Requirements) and include procedures for:
 - Notifying the client of the agency's dissolution
 - Documenting the notification
 - Carrying out the notification
- The plan must comply with §97.217(a)(2) of this chapter (relating to Agency Closure Procedures and Voluntary Suspension of Operations).

§97.296 Physician Delegation and Performance of Physician-Delegated Tasks

In the state of Texas ACHC will verify written policies and procedures address:

- Whether or not physician delegation will be honored by the agency and if the agency accepts physician delegation, the agency must comply with the Medical Practice Act, Occupations Code, Chapter 157, concerning physician delegation.
- The agency may accept delegation from a physician only if the agency receives the following from the physician:
 - » The name of the client
 - » The name of the delegating physician
 - » The task(s) to be performed
 - » The name of the individual(s) to perform the task(s)
 - » The time frame for the delegation order; and
 - » If the task is medication administration, the medication to be given, route, dose and frequency

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§97.298 Delegation of Nursing Tasks by Registered Professional Nurses to Unlicensed Personnel and Tasks Not Requiring Delegation

In the state of Texas ACHC will verify:

- The agency has adopted a written policy to ensure compliance with the following rules adopted by the Texas Board of Nursing:
 - » 22 TAC, Chapter 224 (relating to Delegation of Nursing Tasks by Registered Professional Nurses to Unlicensed Personnel for Clients with Acute Conditions or in Acute Care Environments)
 - » 22 TAC, Chapter 225 (relating to RN Delegation to Unlicensed Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions)
- (Requirements for RN delegation for personal assistance service clients are located in §97.404 of this chapter relating to Standards Specific to Agencies Licensed to Provide Personal Assistance Services)

§97.299 Nursing Education, Licensure and Practice

In the state of Texas ACHC will verify:

- When providing nursing services, the agency has written policies and procedures to ensure compliance with the rules of the Texas Board of Nursing adopted at 22 TAC Chapters 211-226 (relating Licensure and Practice in the State of Texas).

§97.302 Pronouncement of Death

In the state of Texas ACHC will verify:

- The agency has adopted written policies and procedures on pronouncement of death when/if that function is carried out by an agency registered nurse and the policy must be in compliance with the Health and Safety Code, §671.001 (concerning Determination of Death and Autopsy Reports).

§97.290 Backup Services and After Hours Care

In the state of Texas ACHC will verify:

- The agency has adopted a written policy to ensure that backup services are available when an agency employee or contractor is not available to deliver the ordered services.
- That backup services may be provided by an agency employee, a contractor, or the client's designee who is willing and able to provide the necessary services.
- If the client's designee has agreed to provide backup services required by this section, the agency must have the designee sign a written agreement to be the backup service provider and the agency must keep the agreement in the client's file.
- The agency must not coerce a client to accept backup services.

§97.245 Staffing Policies

In the state of Texas ACHC will verify written policies and procedures address:

- Procedures for processing criminal history checks and searches of the nurse aide registry and the employee misconduct registry for unlicensed personnel in accordance with §97.247 of this sub-chapter (relating to Employability and Use of Unlicensed Persons).
- When volunteers are used by the agency, address the use of volunteers and the policy must be in compliance with §97.248 of this sub-chapter (relating to Volunteers).

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§97.253 Disclosure of Drug Testing Policy

In the state of Texas ACHC will verify written policies and procedures address:

- The agency must have a written policy describing whether or not it will conduct drug testing of its employees who have direct contact with clients.
- When an agency conducts drug testing, the written policy describes the method by which drug testing is conducted.
- When an agency does not practice drug testing of its employees, the written policy state that the agency does not conduct drug testing of its employees.
- The agency must provide a copy of the policy to anyone applying for services from the agency and any person who requests it.

§97.245 Staffing Policies

In the state of Texas ACHC will verify written policies and procedures address:

- Requirements for providing and supervising services to pediatric clients and services provided to pediatric clients must be provided by staff who have been instructed and have demonstrated competency in the care of pediatric clients.
- The requirement that all personnel who are direct care staff and who have direct contact with clients (employed by or under contract with the agency) sign a statement that they have read, understand, and will comply with all applicable agency policies.

§97.245 Staffing Policies

In the state of Texas ACHC will verify:

- The agency's written staffing policies must ensure personnel are informed of changes in techniques, philosophies, goals, client's rights, and products relating to client's care.

§97.281 Client Care Policies

In the state of Texas ACHC will verify:

- The agency has adopted and enforces a written policy that specifies the agency's client care practices. The written policies must include, at a minimum, the following:
 - » Placing services on hold
 - » Intravenous services
 - » Care of the pediatric client
 - » Procedures the staff will perform for clients, such as dressing changes, Foley catheter changes, wound irrigation, administration of medication
 - » Psychiatric nursing procedures
 - » Care of the dying patient

§97.288 Coordination of Services

In the state of Texas ACHC will verify:

- The agency has a written policy and procedure requiring effective coordination of care with all service providers involved in the care of a client, including physicians, contracted health care professionals, and other agencies.

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§97.285 Infection Control

In the state of Texas ACHC will verify written policies and procedures address:

- The agency will ensure compliance of the agency, its employees, and its contractors with:
 - » The Communicable Disease Prevention and Control Act, Health and Safety Code, Chapter 81; the Occupational Safety and Health Administration (OSHA), 29 CFR Part 1910.1030 and Appendix A relating to Bloodborne Pathogens; and
 - » The Health and Safety Code, Chapter 85, Sub-chapter I, concerning the prevention of the transmission of human immunodeficiency virus and hepatitis B virus
- The agency will require documentation of infections that the client acquires while receiving services from the agency:
 - » If the agency is licensed to provide only personal assistance services, documentation must include the date that the infection was disclosed to the agency employee, the client's name, and treatment
 - » If the agency is licensed to provide services other than personal assistance services, documentation must include the date that the infection was detected, the client's name, primary diagnosis, signs and symptoms, type of infection, pathogens identified, and treatment as disclosed by the client

§97.256 Emergency Preparedness Planning and Implementation

In the state of Texas ACHC will verify written policies and procedures address:

- The agency has a written emergency preparedness and response plan that comprehensively describes its approach to a disaster that could affect the need for its services or its ability to provide those services.
- The agency's written emergency preparedness and response plan must:
 - » Designate, by title, an employee, and at least one alternate employee to act as the agency's disaster coordinator
 - » Include a continuity of operations business plan that addresses emergency financial needs, essential functions for client services, critical personnel, and how to return to normal operations as quickly as possible
 - » Include how the agency will monitor disaster-related news and information, including after hours, weekends, and holidays, to receive warnings of imminent and occurring disasters
 - » Include procedures to release client information in the event of a disaster, in accordance with the agency's written policy required by §97.301(a)(2) of this sub-chapter (relating to Client Records)
 - » Describe the actions and responsibilities of agency staff in each phase of emergency planning, including mitigation, preparedness, response, and recovery
- The response and recovery phases of the plan must describe:
 - » The actions and responsibilities of agency staff when warning of an emergency is not provided
 - » Who at the agency will initiate each phase
 - » A primary mode of communication and alternate communication or alert systems in the event of telephone or power failure
 - » Procedures for communicating with:
 - Staff
 - Clients or persons responsible for a client's emergency response plan
 - Local, state, and federal emergency management agencies
 - Other entities including DADS and other healthcare providers and suppliers

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- The agency's emergency preparedness and response plan must include procedures to triage clients that allow the agency to:
 - » Readily access recorded information about an active client's triage category in the event of an emergency to implement the agency's response and recovery phases, as described in subsection (d) of this section
 - » Categorize clients into groups based on:
 - The services the agency provides to a client
 - The client's need for continuity of the services the agency provides
 - The availability of someone to assume responsibility for a client's emergency response plan if needed by the client
- The agency's emergency preparedness and response plan must include procedures to identify a client who may need evacuation assistance from local or state jurisdictions because the client:
 - » Cannot provide or arrange for his or her transportation
 - » Has special health care needs requiring special transportation assistance
- If the agency identifies a client who may need evacuation assistance, as described in subsection of this section, agency personnel must provide the client with the amount of assistance the client requests to complete the registration process for evacuation assistance if the client:
 - » Wants to register with the Transportation Assistance Registry, accessed by dialing 2-1-1
 - » Is not already registered, as reported by the client or legally authorized representative
- The agency must provide and discuss the following information about emergency preparedness with each client:
 - » The actions and responsibilities of agency staff during and immediately following an emergency
 - » The client's responsibilities in the agency's emergency preparedness and response plan
 - » Materials that describe survival tips and plans for evacuation and sheltering in place
 - » A list of community disaster resources that may assist a client during a disaster, including the Transportation Assistance Registry available through 2-1-1 Texas, and other community disaster resources provided by local, state, and federal emergency management agencies An agency's list of community disaster resources must include information on how to contact the resources directly or instructions to call 2-1-1 for more information about community disaster resources
- The agency must orient and train employees, volunteers, and contractors about their responsibilities in the agency's emergency preparedness and response plan.
- The agency must complete an internal review of the plan at least annually, and after each actual emergency response, to evaluate its effectiveness and to update the plan as needed.
- As part of the annual internal review, an agency must test the response phase of its emergency preparedness and response plan in a planned drill if not tested during an actual emergency response.
- The agency must make a good faith effort to comply with the requirements of this section during a disaster and if the agency is unable to comply with any of the requirements of this section, it must document in the agency's records attempts of staff to follow procedures outlined in the agency's emergency preparedness and response plan.
- The agency is not required to continue to provide care to clients in emergency situations that are beyond the agency's control and that make it impossible to provide services, such as when roads are impassable or when a client relocates to a place unknown to the agency and the agency may establish links to local emergency operations centers to determine a mechanism by which to approach specific areas within a disaster area in order for the agency to reach its clients.

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- If written records are damaged during a disaster, the agency must not reproduce or recreate client records except from existing electronic records and any records reproduced from existing electronic records must include:
 - » The date the record was reproduced
 - » The agency staff member who reproduced the record
 - » How the original record was damaged
- Notwithstanding the provisions specified in Division 2 of this sub-chapter (relating to Conditions of a License), no later than five working days after an agency temporarily relocates a place of business, or temporarily expands its service area resulting from the effects of an emergency or disaster, an agency must notify and provide the following information to the DADS Home and Community Support Services Agencies licensing unit:
 - » When temporarily relocating a place of business:
 - The license number for the place of business and the date of relocation
 - The physical address and phone number of the location
 - The date the agency returns to a place of business after the relocation
 - » When temporarily expanding the service area to provide services during a disaster:
 - The license number and revised boundaries of the service area
 - The date the expansion begins
 - The date the expansion ends
- The agency must provide the notice and information described in subsection (o) of this section by fax or email and if fax and email are unavailable, the agency may notify the DADS licensing unit by telephone, but must provide the notice and information in writing as soon as possible. If communication with the DADS licensing unit is not possible, the agency must provide the notice and information by fax, e-mail, or telephone to the designated survey office.

§97.860 Provision of Drugs, Biologicals, Medical Supplies, and Durable Medical Equipment by a Hospice

In the state of Texas ACHC will verify written policies and procedures address:

- The policies and procedures must address the safe use and disposal of controlled drugs in a client's home, including:
 - » When a new controlled drug is ordered
 - » When the client dies
 - » The manner for disposing and documenting disposal of controlled drugs in the client's home

§97.842 Hospice Aide services

In the state of Texas ACHC will verify that:

- If the RN is employed, the employing entity must have a written policy acknowledging that the final decision to delegate shall be made by the RN in consultation with client or client's responsible adult.

§97.250 Agency Investigations

In the state of Texas ACHC will verify that written policies and procedures address:

- The agency has adopted and enforces a written policy relating to the agency's procedures for investigating complaints and reports of abuse, neglect, and exploitation.
- The policy must meet the requirements of this section.

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- Reports of abuse, neglect, and exploitation (ANE).
 - » Immediately upon witnessing the act or upon receipt of the allegation, an agency must initiate an investigation of known and alleged acts of ANE by agency employees, including volunteers and contractors.
 - » An agency must complete DADS' Provider Investigation Report form and include the following information:
 - The incident date
 - The alleged victim
 - The alleged perpetrator
 - Any witnesses
 - The allegation
 - Any injury or adverse effects
 - Any assessments made
 - Any treatment required;
 - The investigation summary
 - Any action taken

- The agency must send the completed DADS' Provider Investigation Report form to DADS' Complaint Intake Unit no later than the 10th day after reporting the act to the Department of Family and Protective Services and DADS.

- Agency responsibilities regarding complaint investigations.

- The agency must:
 - » Document receipt of the complaint and initiate a complaint investigation within 10 days after the agency's receipt of the complaint
 - » Document all components of the investigation

- The agency must complete the investigation and documentation within 30 days after the agency receives a complaint or report of abuse, neglect, and exploitation, unless the agency has and documents reasonable cause for a delay.

§97.297 Receipt of Physician Orders Policy

In the state of Texas ACHC will verify written policies and procedures address:

- The agency must have a written policy describing protocols and procedures agency staff must follow when receiving physician orders. The policies and procedures must include, at a minimum, the following:
 - » The time frame for countersignature of physician verbal orders.
 - » That signed physician orders may be submitted via facsimile machine. The agency is not required to have the original signatures on file. However, the agency must be able to obtain original signatures if an issue surfaces that would require verification of an original signature.
 - » If physician orders are accepted via facsimile, the policy must:
 - Outline safeguards to assure that transmitted information is sent to the appropriate individual; and
 - Outline the procedures to be followed in the case of misdirected transmission.

§97.250 Agency Investigations

In the state of Texas ACHC will verify written policies and procedures address:

- The agency has adopted and enforces a written policy relating to the agency's procedures for investigating complaints and reports of abuse, neglect, and exploitation. The written policies and procedures must include, at a minimum, the following:
 - » Immediately upon witnessing the act or upon receipt of the allegation, the agency must initiate an investigation of known and alleged acts of abuse, neglect and/or exploitation by agency employees, including volunteers and contractors.
 - » The agency must complete DADS' Provider Investigation Report form and include the following information:
 - Incident date
 - The alleged victim
 - The alleged perpetrator
 - Any witnesses
 - The allegation
 - Any injury or adverse effect
 - Any assessments made
 - Any treatment required
 - The investigation summary; and
 - Any action taken
 - The agency must send the completed DADS' Provider Investigation Report form to DADS' Complaint Intake Unit no later than the 10th day after reporting the act to the Department of Family and Protective Services and DADS
 - » The agency must document receipt of the complaint and initiate a complaint investigation within 10 days after the agency's receipt of the complaint and document all components of the investigation.
 - » The agency must complete the investigation and documentation within 30 days after the agency receives a complaint or report of abuse, neglect, and exploitation, unless the agency has and documents reasonable cause for a delay.

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TEXAS PERSONNEL FILE REQUIREMENTS:

§97.244 Administrator Qualification and Conditions and Supervising Qualifications and Supervising Nurse Qualifications

In the state of Texas ACHC will verify the Administrator is qualified. Administrator requirements include:

- Be a licensed physician, Registered Nurse (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, such as:
 - » A home and community support services agency
 - » A hospital
 - » A nursing facility
 - » A hospice
 - » An outpatient rehabilitation center
 - » A psychiatric facility
 - » An intermediate care facility for persons with mental retardation or related conditions; or
 - » A licensed health care delivery setting providing services for individuals with functional disabilities; or
- Have a high school diploma or a general equivalency degree (GED) with at least two years of management or supervisory experience in a health-related setting, such as:
 - » A home and community support services agency
 - » A hospital
 - » A nursing facility
 - » A hospice
 - » An outpatient rehabilitation center
 - » A psychiatric facility
 - » An intermediate care facility for persons with mental retardation or related conditions; or
 - » A licensed healthcare delivery setting providing services for individuals with functional disabilities
- The Administrator must be a hospice employee and have any additional education and experience required by the hospice's governing body as specified in the agency's job description.
- An Administrator and alternate Administrator must be able to read, write, and comprehend English
- An Administrator and alternate Administrator designated as an Administrator or alternate Administrator for the first time on or after December 1, 2006, must meet the initial educational training requirements specified in §97.259.
- An Administrator and alternate Administrator designated as an Administrator or alternate Administrator before December 1, 2006, must meet the continuing education requirements specified in §97.260.
- A person is not eligible to be the Administrator or alternate Administrator of any agency if the person was the Administrator of an agency cited with a violation that resulted in DADS taking enforcement action against the agency while the person was the Administrator of the cited agency:
 - » This paragraph applies for 12 months after the date of the enforcement action
 - » For purposes of this paragraph, enforcement action means license revocation, suspension and emergency suspension of a license, denial of an application for a license, or the imposition of an injunction, but does not include administrative or civil penalties
 - » If DADS prevails in one enforcement action against the agency and also proceeds with, but does not prevail in another enforcement action based on some or all of the same violations, this paragraph does not apply
- An Administrator and alternate Administrator must not be convicted of an offense described in Chapter 99 Denial or Refusal of License during the time frames described in that chapter.

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§97.259 Initial Educational Training in Administration of Agencies

In the state of Texas ACHC will verify that:

- In addition to the qualifications and conditions described in §97.244, a first-time agency Administrator and alternate Administrator must each complete a total of 24 clock hours of educational training in agency administration before the end of the first 12 months after designation to the position.
- Prior to designation, a first-time Administrator or alternate Administrator must complete eight clock hours of educational training in agency administration. The initial eight clock hours must be completed during the 12 months immediately preceding the date of designation to the position. The initial eight clock hours must include:
 - » Information on the licensing standards for an agency; and
 - » Information on the state and federal laws applicable to an agency, including:
 - The 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
 - The Texas Human Resources Code, Chapter 102, Rights of the Elderly
 - The Americans with Disabilities Act
 - The Civil Rights Act of 1991
 - The Rehabilitation Act of 1993
 - The Family and Medical Leave Act of 1993; and
 - The Occupational Safety and Health Administration (OSHA) requirements
- A first-time Administrator and alternate Administrator must complete an additional 16 clock hours of educational training before the end of the first 12 months after designation to the position. Any of the additional 16 clock hours may be completed prior to designation if completed during the 12 months immediately preceding the date of designation to the position. The additional 16 clock hours must include the following subjects and may include other topics related to the duties of an Administrator:
 - » Information regarding fraud and abuse detection and prevention
 - » Legal issues regarding Advance Directives
 - » Client rights, including the right to confidentiality
 - » Agency responsibilities
 - » Complaint investigation and resolution
 - » Emergency preparedness planning and implementation
 - » Abuse, neglect, and exploitation
 - » Infection control
 - » Nutrition (for agencies licensed to provide inpatient hospice services); and

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- The 24-hour educational training requirement described must be met through structured, formalized classes, correspondence courses, competency-based computer courses, training videos, distance learning programs, or off-site training courses. Subject matter that deals with the internal affairs of an organization does not qualify for credit:
 - » The training must be provided or produced by:
 - An academic institution
 - A recognized state or national organization or association
 - An independent contractor who consults with agencies; or
 - An agency
 - » If an agency or independent contractor provides or produces the training, the training must be approved by Department of Aging and Disability Services (DADS) or recognized by a state or national organization or association. The agency must maintain documentation of this approval or recognition for review by ACHC/DADS Surveyors.
 - » A first-time Administrator and alternate Administrator may apply joint training provided by DADS toward the 24 hours of educational training required by this section if the joint training meets the educational training requirements described in subsections above.

- Documentation of Administrator and alternate Administrator training must:
 - » Be on file at the agency; and
 - » Contain the name of the class or workshop, the course content (such as the curriculum), the hours and dates of the training, and the name and contact information of the entity and trainer who provided the training.

- A first-time Administrator and alternate Administrator must not apply a pre-survey conference toward the 24 hours of educational training required in this section.

- After completing the 24 hours of initial educational training prior to or during the first 12 months after designation as a first-time Administrator and alternate Administrator, an Administrator and alternate Administrator must then complete the continuing education requirements as specified in §97.260 of this division (relating to Continuing Education in Administration of Agencies) in each subsequent 12-month period after designation.

§97.244 Administrator Qualifications and Conditions and Supervising Nurse Qualifications

In the state of Texas ACHC will verify that the alternate Administrator is qualified.

Alternate Administrator requirements include:

- 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, such as:
 - » A home and community support services agency
 - » A hospital
 - » A nursing facility
 - » A hospice
 - » An outpatient rehabilitation center
 - » A psychiatric facility
 - » An intermediate care facility for persons with mental retardation or related conditions; or
 - » A licensed healthcare delivery setting providing services for individuals with functional disabilities; or

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- Have a high school diploma or a general equivalency degree (GED) with at least two years of management or supervisory experience in a health-related setting, such as:
 - » A home and community support services agency
 - » A hospital
 - » A nursing facility
 - » A hospice
 - » An outpatient rehabilitation center
 - » A psychiatric facility
 - » An intermediate care facility for persons with mental retardation or related conditions; or
 - » A licensed healthcare delivery setting providing services for individuals with functional disabilities

 - The alternate Administrator must be a hospice employee and have any additional education and experience required by the hospice's governing body as specified in the agency's job description.

 - An Administrator and alternate Administrator must be able to read, write, and comprehend English.

 - An Administrator and alternate Administrator designated as an Administrator or alternate Administrator for the first time on or after December 1, 2006, must meet the initial educational training requirements specified in §97.259.

 - An Administrator and alternate Administrator designated as an Administrator or alternate Administrator before December 1, 2006, must meet the continuing education requirements specified in §97.260.

 - A person is not eligible to be the Administrator or alternate Administrator of any agency if the person was the Administrator of an agency cited with a violation that resulted in DADS taking enforcement action against the agency while the person was the Administrator of the cited agency:
 - » This paragraph applies for 12 months after the date of the enforcement action
 - » For purposes of this paragraph, enforcement action means license revocation, suspension and emergency suspension of a license, denial of an application for a license, or the imposition of an injunction, but does not include administrative or civil penalties
 - » If DADS prevails in one enforcement action against the agency and also proceeds with, but does not prevail in another enforcement action based on some or all of the same violations, this paragraph does not apply

 - An Administrator and alternate Administrator must not be convicted of an offense described in Chapter 99 Denial or Refusal of License during the time frames described in that chapter.
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§97.244 Administrator Qualifications and Conditions and Supervising Nurse Qualifications

In the state of Texas ACHC will verify that the supervising nurse is qualified.

Supervising nurse qualifications include:

- For an agency without a home dialysis designation, a supervising nurse and alternate supervising nurse must each:
 - » Be an RN licensed in Texas or in accordance with the Texas Board of Nursing rules for Nurse Licensure Compact (NLC); and
 - » Have at least one year of experience as an RN within the last 36 months
- For an agency with home dialysis designation, a supervising nurse and alternate supervising nurse must each:
 - » Be an RN licensed in Texas or in accordance with the Texas Board of Nursing rules for NLC, and:
 - Have at least three years of current experience in hemodialysis; or
 - Have at least two years of experience as an RN and hold a current certification from a nationally recognized board in nephrology nursing or hemodialysis; or
 - » Be a nephrologist or physician with training or demonstrated experience in the care of end-stage renal disease (ESRD) clients.

§97.246 Personnel Records

In the state of Texas ACHC will verify:

- A personnel record for volunteers must include the following:
 - » A volunteer application/agreement.
- For an unlicensed employee and unlicensed volunteer whose duties would or do include face-to-face contact with a client, their personnel record must contain:
 - » A printed copy of the results of the initial and annual searches of the nurse aide registry (NAR) and employee misconduct registry (EMR) obtained from the DADS internet website; and
 - » Documentation that the employee, in accordance with §97.247(a)(4), or volunteer, in accordance with §97.247(b)(4), received written information about the EMR.
- An agency must provide personnel records not stored at the site of a survey upon request by a ACHC/DADS Surveyor as specified in §97.507(c).

§97.247 Verification of Employability and Use of Unlicensed Persons

In the state of Texas ACHC will verify:

- Agencies conduct a criminal history check authorized by, and in compliance with, Texas Health and Safety Code, Chapter 250 (relating to Nurse Aide Registry and Criminal History Checks of Employees and Applicants for Employment in Certain Facilities Serving the Elderly or Persons with Disabilities) for an unlicensed applicant for employment and an unlicensed employee.
- Agencies must not employ an unlicensed applicant whose criminal history check includes a conviction listed in THSC §250.006 that bars employment, or whose criminal history check includes a conviction the agency has determined is a contraindication to employment. If an applicant's or employee's criminal history check includes a conviction of an offense that is not listed in THSC §250.006, the agency must document its review of the conviction and its determination of whether the conviction is a contraindication to employment.

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§97.11 Criteria and Eligibility for Licensing

In the state of Texas ACHC will verify that:

- DADS may deny an application for an initial license or for renewal of a license if any person described in this section:
 - » On the date of the application:
 - Is subject to denial or refusal as described in Chapter 99 (relating to Denial or Refusal of License) during the time frames described in that chapter
 - Has an unsatisfied final judgment in any state or other jurisdiction
 - Is in default on a guaranteed student loan (Education Code, §57.491); or
 - Is delinquent on child support obligations (Family Code, Chapter 232)
 - » For two years preceding the date of the application, has a history in any state or other jurisdiction of any of the following:
 - An unresolved federal or state tax lien
 - An eviction involving any property or space used as an inpatient hospice agency; or
 - An unresolved final Medicare or Medicaid audit exception; or
 - » For twelve months preceding the date of the application, has a history in any state or other jurisdiction of any of the following:
 - Denial, suspension or revocation of an agency license or a license for a healthcare facility
 - Surrendering a license before expiration or allowing a license to expire instead of the licensing authority proceeding with enforcement action
 - A Medicaid or Medicare sanction or penalty relating to the operation of an agency or a healthcare facility
 - Operating an agency that has been decertified in any state under Medicare or Medicaid; or
 - Debarment, exclusion, or involuntary contract cancellation in any state from Medicare or Medicaid

§97.241 Management

In the state of Texas ACHC will verify that:

- The following persons should not have been convicted of an offense described in Chapter 99, "Criminal Convictions Barring Facility Licensure" during the specified time frames:
 - » The applicant
 - » A controlling person of the applicant
 - » A person with a disclosable interest
 - » An affiliate of the applicant
 - » The Administrator
 - » The alternate Administrator; and
 - » The Chief Financial Officer (CFO)

§97.248 Volunteers

In the state of Texas ACHC will verify that:

- If an agency uses volunteers, the agency must use volunteers in defined roles under the supervision of a designated agency employee:
 - » A volunteer must meet the same requirements and standards that apply to agency employees performing the same activities
 - » An agency may use volunteers in administrative and direct client care roles
 - » Volunteers must document services provided to a client and, if applicable, services provided to the client's family

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§97.299 Nursing Education, Licensure and Practice

In the state of Texas ACHC will verify that:

- The agency enforces written policies and procedures to ensure compliance with the rules of the Texas Board of Nursing adopted at 22 TAC Chapters 211-226 relating to Nursing Continuing Education.

§97.260 Continuing Education in Administration of Agencies

In the state of Texas ACHC will verify:

- In addition to the qualifications and conditions described in §97.244, an Administrator and alternate Administrator must complete 12 clock hours of continuing education within each 12-month period beginning with the date of designation. The 12 clock hours of continuing education must include at least two of the following topics, and may include other topics related to the duties of an Administrator:
 - » Any one of the educational training subjects listed in §97.259
 - » Development and interpretation of agency policies
 - » Basic principles of management in a licensed health-related setting
 - » Ethics
 - » Quality improvement
 - » Risk assessment and management
 - » Financial management
 - » Skills for working with clients, families, and other professional service providers
 - » Community resources; or
 - » Marketing

- This subsection applies only to an agency Administrator or alternate Administrator designated as an agency Administrator or alternate Administrator before December 1, 2006, who has not served as an Administrator or alternate Administrator for 180 days or more immediately preceding the date of designation. Within the first 12 months after the date of designation, at least eight of the 12 clock hours of continuing education must include the topics listed in §97.259. The remaining four hours of continuing education must include topics related to the duties of an Administrator and may include the topics listed above in this section.

- Documentation of Administrator and alternate Administrator continuing education must:
 - » Be on file at the agency
 - » Contain the name of the class or workshop, the topics covered, and the hours and dates of the training

- An Administrator or alternate Administrator must not apply the pre-survey conference toward the continuing education requirements in this section.

TEXAS PATIENT RECORD REQUIREMENTS:

§97.842 Hospice Aide services

In the state of Texas ACHC will verify that:

- A RN prepares written client-care instructions for the hospice aide per 22 TAC, Part 11, Chapter 224, 224.8

§97.292 Agency and Client Agreement and Disclosure

In the state of Texas ACHC will verify that:

- The agreement must include at a minimum the following:
 - » Supervision by the agency of services provided
 - » A client agreement to and acknowledgment of services by home health medication aides, if home health medication aides are used. Documentation is maintained in the patient record of receipt of agreement.

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§97.282 Client Conduct and Responsibility and Client Rights

In the state of Texas ACHC will verify that:

- An agency complies with the provisions of the Texas Human Resources Code, Chapter 102, Rights of the Elderly, which applies to a client 60 years of age or older.
- At the time of admission, an agency must provide a client who receives licensed home health services, licensed and certified home health services, hospice services, or personal assistance services with a written statement that informs the client that a complaint against the agency may be directed to the Department of Aging and Disability Services, DADS' Consumer Rights and Services Division, P.O. Box 149030, Austin, Texas 78714-9030, toll free 1-800-458-9858. The statement also may inform the client that a complaint against the agency may be directed to the Administrator of the agency. The statement about complaints directed to the Administrator also must include the time frame in which the agency will review and resolve the complaint.
- A client has the right to participate in planning the care or treatment and in planning a change in the care or treatment.
- A client has the right to be informed, before care is initiated, of the extent to which payment may be expected from the client, a third-party payor, and any other source of funding known to the agency.

§97.283 Advance Directives

In the state of Texas ACHC will verify that:

- If the client is incompetent or otherwise incapacitated and unable to receive the notice at the time the notice is provided, the agency must provide the required written notice to others involved in the client's care in the following order of preference:
 - » The client's legal guardian
 - » A person responsible for the healthcare decisions of the client
 - » The client's spouse
 - » The client's adult child
 - » The client's parent; or
 - » The person admitting the client
- If an agency is unable, after a diligent search, to locate an individual listed above, the agency is not required to provide the notice.
- If a client who was incompetent or otherwise incapacitated and unable to receive the notice at the time notice was to be provided later becomes competent and able to receive the notice, the agency must provide the written notice at the time the client becomes competent and able to receive the notice.
- The agency shall provide written notice to an individual of the written policies regarding Advance Directives, and the notice must be provided at one of the following times, depending on which is earlier:
 - » The time the individual is admitted to receive services from the healthcare provider; or
 - » The time the healthcare provider begins providing care to the individual

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§97.301 Client Records

In the state of Texas ACHC will verify the following regarding the clinical record:

- All entries regarding the delivery of care or services are not altered without providing evidence and an explanation of such alteration.
- Each entry to the client record is current, accurate, signed, and dated with the date of entry by the individual entering the information. The record must include all services, whether furnished directly or under arrangement. Correction fluid or tape must not be used in the record. Corrections must be made by striking through the error with a single line and must include the date the correction was made and the initials of the person making the correction.
- Clinical and progress notes are written the day service is rendered and should be incorporated into the client record within 14 working days.
- The client record includes, for clients 60 years and older, acknowledgment of the client's receipt of a copy of the Human Resources Code, Chapter 102, Rights of the Elderly.
- The client record includes acknowledgment of the client's receipt of the agency's policy relating to the reporting of abuse, neglect, or exploitation of a client.
- The client record includes documentation that the client has been informed of how to register a complaint in accordance with §97.282(d).
- The client record includes a client agreement to and acknowledgment of services by home health medication aides, if home health medication aides are used.
- The client record includes a discharge summary, including the reason for discharge or transfer and the agency's documented notice to the client, the client's physician (if applicable), and other individuals as required in §97.295 (relating to Client Transfer or Discharge Notification Requirements).
- The agency may not destroy client records that relate to any matter that is involved in litigation if the agency knows the litigation has not been finally resolved.
- There must be an arrangement for the preservation of inactive records to ensure compliance with this subsection.

§97.300 Medication Administration

In the state of Texas ACHC will verify that:

- Any individual delivering care must report any adverse reaction to a supervisor and document this in the client's record on the day of occurrence. If the adverse reaction occurs after regular business hours, the individual delivering care must report the adverse reaction as soon as it is disclosed.

§97.295 Client Transfer or Discharge Notification Requirements

In the state of Texas ACHC will verify that:

- An agency intending to transfer or discharge a client must:
 - » Provide written notification to the client or the client's parent, family, spouse, significant other, or legal representative; and
 - » Notify the client's attending physician or practitioner if he or she is involved in the agency's care of the client
 - » Ensure delivery of the written notification no later than five days before the date on which the client will be transferred or discharged
 - » Deliver the required notice by hand or by mail

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- » If delivering the written notice by mail:
 - Mail the notice at least eight working days before the date of discharge or transfer; and
 - Speak with the client by telephone or in person to ensure the client's knowledge of the transfer or discharge at least five days before the date of discharge or transfer
- » Transfer or discharge a client without prior notice for the following reasons:
 - Upon the client's request
 - If the client's medical needs require transfer, such as a medical emergency
 - In the event of a disaster when the client's health and safety are at risk in accordance with provisions of §97.256
 - For the protection of staff or a client after the agency has made a documented reasonable effort to notify the client, the client's family and physician, and appropriate state or local authorities of the agency's concerns for staff or client safety, and in accordance with agency policy
 - According to physician orders; or
 - If the client fails to pay for services, except as prohibited by federal law
- » Keep the following in the client's file:
 - A copy of the written notification provided to the client or the client's parent, family, spouse, significant other, or legal representative
 - Documentation of the personal contact with the client if the required notice was delivered by mail

§97.297 Receipt of Physician Orders

In the state of Texas ACHC will verify that:

- Agencies enforce their written policy describing protocols and procedures agency staff must follow when receiving physician orders that addresses:
 - » If verbal orders were countersigned by the physician in the appropriate time frame
 - » That, if the physician orders are received via fax, the HHA follows procedures to safeguard the patient information and ensure that it is sent to the appropriate individual, as well as determines what to do if the information is sent to the wrong individual

§97.286 Disposal of Special or Medical Waste

In the state of Texas ACHC will verify that:

- Agencies provide both verbal and written instructions to the agency's clients regarding the proper procedure for disposing of sharps. For purposes of this subsection, sharps include hypodermic needles, hypodermic syringes with attached needles, scalpel blades, razor blades, disposable razors, disposable scissors used in medical procedures, and intravenous stylets and rigid introducers.

TEXAS OBSERVATION REQUIREMENTS:

§97.212 License Alteration Prohibited

In the state of Texas ACHC will verify that:

- The license for hospice services has not been altered.

§97.219 Procedures for Adding or Deleting a Category to the License

In the State of Texas ACHC will verify that:

- The agency shall provide written notice to DADS as least 30 days before the addition or deletion of the category from its license.

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§97.218 Agency Organizational Changes

In the State of Texas ACHC will verify that:

- The agency shall provide written notice to DADS no later than seven days if an agency has had a change occur in the following management personnel:
 - » Administrator
 - » Alternate administrator
 - » Chief financial officer; or
 - » Controlling person

§97.322 Standards for Alternate Delivery Sites

In the State of Texas ACHC will verify that:

- All alternate delivery sites (ADS) must comply with the statute and this chapter, including the additional standards in Subchapter H of this chapter.
- If certified by CMS, an ADS must comply with the applicable federal rules and regulations for hospice agencies in 42 CFR, Part 418, Hospice Care.
- A parent agency and an ADS must meet the following requirements:
 - » The parent agency administrator or alternate administrator, or supervising nurse or alternate supervising nurse must conduct an on-site supervisory visit to the ADS at least monthly. The parent agency may visit the ADS more frequently considering the size of the service area provided by the parent agency.
 - » The supervisory visits must be documented and include the date of the visit, the content of the consultation, the individuals in attendance, and the recommendations of the staff.
 - » The parent agency must approve all ADS policies and procedures. This approval must be documented and filed in the parent agency and ADS.
 - » Issuance or renewal of an ADS license is contingent upon compliance by the parent agency and ADS with the statute and this chapter.
 - » DADS may take enforcement action against a parent agency license for an ADS' failure to comply with the statute or this chapter in accordance with Subchapter F of this chapter (relating to Enforcement).
 - » Revocation, suspension, denial or surrender of a parent agency license results in the same revocation, suspension, denial or surrender of all ADS licenses of the parent agency.

§97.842 Hospice Aide services

In the State of Texas ACHC will verify that:

- The RN or another RN qualified to supervise the unlicensed person shall be available, in person or by telecommunications when the unlicensed person is performing the task.

§97.213 Agency Relocation

In the state of Texas ACHC will verify that:

- DADS was notified at least 30 days prior to the change of location, when applicable.

§97.214 Notification Procedures for a Change in Agency Contact Information and Operating Hours

In the state of Texas ACHC will verify that:

- When applicable, an agency must submit written notice to DADS no later than seven days after a change in the agency's:
 - » Telephone number; or
 - » Mailing address, if different than the physical location
- An agency must notify DADS no later than seven days after a change in the agency's operating hours.

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§97.215 Notification Procedures for an Agency Name Change

In the state of Texas ACHC will verify that:

- If an agency intends to change its name (legal entity or doing business as), but does not undergo a change of ownership, as defined in §97.23(b) the agency must report the name change to DADS no later than seven days after the effective date of the name change.
- After DADS receives and verifies the required documents and information, DADS sends the agency a Notification of Change reflecting the agency's new name. The agency must post the Notification of Change beside its license in accordance with §97.211.

§97.216 Change in Agency Certification Status

In the state of Texas ACHC will verify that:

- Agencies must notify DADS in writing no later than five days after the agency decides to voluntarily withdraw from the Medicare Program. If an agency's voluntary withdrawal from the Medicare Program is based on the permanent closure of the agency, the agency must also comply with §97.217.
- If an agency chooses to voluntarily withdraw from the Medicare Program, or if CMS involuntarily terminates or denies its certification, the license will be affected as follows:
 - » If an agency licensed to provide licensed and certified home health services has no other license categories remaining on the license after losing its Medicare certification, its license is void and the agency must cease operation. If the agency wants to resume providing services, it must apply for an initial license.
 - » If a Medicare-certified agency has another license category remaining on the current license and the agency wants to continue providing services under the remaining license category, DADS surveys the agency under the remaining license category.

§97.293 Client List and Service

In the state of Texas ACHC will verify that:

- The agency maintains a current list of clients for each category of service licensed.
- The list must include all services being delivered by the agency and services being delivered under contract.
- The client list must include the client's name, identification or clinical record number, start of care date or admission date, certification period (if applicable), diagnosis or functional assessment (as appropriate), and the disciplines that are providing services.

§97.303 Standards for Possession of Sterile Water or Saline, Certain Vaccines or Tuberculin, and Certain Dangerous Drugs

In the state of Texas ACHC will verify that:

- Any agency that possesses sterile water or saline, certain vaccines or Tuberculin, or certain dangerous drugs as specified by this section must comply with the provisions of this section.

Possession of sterile water or saline:

- An agency or its employees who are RNs or Licensed Vocational Nurses (LVNs) may purchase, store, or transport for the purpose of administering to their home health or hospice clients under physician's orders the following:
 - » Sterile water for injection and irrigation; and
 - » Sterile saline for injection and irrigation

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Possession of certain vaccines or Tuberculin:

- An agency or its employees who are RNs or LVNs may purchase, store, or transport for the purpose of administering to the agency's employees, home health or hospice clients, or client family members under physician's standing orders the following dangerous drugs:
 - » Hepatitis B vaccine
 - » Influenza vaccine
 - » Tuberculin Purified Protein Derivative (PPD) for Tuberculosis testing; and
 - » Pneumococcal polysaccharide vaccine
- An agency that purchases, stores, or transports a vaccine or Tuberculin under this section must ensure that any standing order for the vaccine or Tuberculin:
 - » Is signed and dated by the physician
 - » Identifies the vaccine or Tuberculin covered by the order
 - » Indicates that the recipient of the vaccine or Tuberculin has been assessed as an appropriate candidate to receive the vaccine or Tuberculin, and has been assessed for the absence of any contraindication
 - » Indicates that appropriate procedures are established for responding to any negative reaction to the vaccine or Tuberculin; and
 - » Orders that a specific medication or category of medication be administered if the recipient has a negative reaction to the vaccine or Tuberculin

Possession of certain dangerous drugs:

- In compliance with Health and Safety Code, §142.0063, an agency or its employees who are RNs or LVNs may purchase, store, or transport for the purpose of administering to their home health or hospice patients the following dangerous drugs:
 - » Any of the following items in a sealed portable container of a size determined by the dispensing pharmacist:
 - 1,000 milliliters of 0.9% sodium chloride intravenous infusion
 - 1,000 milliliters of 5.0% dextrose in water injection; or
 - Sterile saline; or
 - » Not more than five dosage units of any of the following items in an individually sealed, unused portable container:
 - Heparin sodium lock flush in a concentration of 10 units per milliliter or 100 units per milliliter
 - Epinephrine HCl solution in a concentration of one to 1,000
 - Diphenhydramine HCl solution in a concentration of 50 milligrams per milliliter
 - Methylprednisolone in a concentration of 125 milligrams per two milliliters
 - Naloxone in a concentration of one milligram per milliliter in a two-milliliter vial
 - Promethazine in a concentration of 25 milligrams per milliliter
 - Glucagon in a concentration of one milligram per milliliter
 - Furosemide in a concentration of 10 milligrams per milliliter
 - Lidocaine 2.5% and Prilocaine 2.5% cream in a five-gram tube; or
 - Lidocaine HCL solution in a concentration of 1% in a two-milliliter vial

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Possession of certain dangerous drugs:

- An agency or the agency's authorized employees may purchase, store, or transport dangerous drugs in a sealed portable container only if the agency has established policies and procedures to ensure that:
 - » The container is handled properly with respect to storage, transportation, and temperature stability
 - » A drug is removed from the container only on a physician's written or oral order
 - » The administration of any drug in the container is performed in accordance with a specific treatment protocol; and
 - » The agency maintains a written record of the dates and times the container is in the possession of an RN or LVN
- An agency or the agency's authorized employee who administers a drug listed in subparagraph (A) of this paragraph may administer the drug only in the client's residence under physician's orders in connection with the provision of emergency treatment or the adjustment of:
 - » Parenteral drug therapy; or
 - » Vaccine or Tuberculin administration
- If an agency or the agency's authorized employee administers a drug listed in subparagraph (A) of this paragraph pursuant to a physician's oral order, the agency must proceed as follows upon receipt of a signed copy of the order:
 - » Not later than 24 hours after receipt of the order, reduce the order to written form and send a copy of the form to the dispensing pharmacy by mail or facsimile transmission; and
 - » Not later than 20 days after receipt of the order, send a copy of the order as signed by and received from the physician to the dispensing pharmacy
- A pharmacist that dispenses a sealed portable container under this subsection will ensure that the container:
 - » Is designed to allow access to the contents of the container only if a tamper-proof seal is broken
 - » Bears a label that lists the drugs in the container and provides notice of the container's expiration date as one of the following, depending on which is earlier:
 - The date that is six months after the date on which the container is dispensed; or
 - The earliest expiration date of any drug in the container; and
 - » Remains in the pharmacy or under the control of a pharmacist, RN, or LVN
- If an agency or the agency's authorized employee purchases, stores, or transports a sealed portable container under this subsection, the agency must deliver the container to the dispensing pharmacy for verification of drug quality, quantity, integrity, and expiration dates not later than one of the following, depending on which is earlier:
 - » The seventh day after the date on which the seal on the container is broken; or
 - » The date for which notice is provided on the container label
- A pharmacy that dispenses a sealed portable container under this section is required to take reasonable precautionary measures to ensure that the agency receiving the container complies with subparagraph (F) of this paragraph. On receipt of a container under subparagraph (F) of this paragraph, the pharmacy will perform an inventory of the drugs used from the container and will restock and reseal the container before delivering it to the agency for reuse.

§97.214 Notification Procedures for a Change in Agency Contact Information and Operating Hours

In the state of Texas ACHC will verify that:

- If a change occurs in the following management personnel, an agency must submit a written notice to DADS no later than seven days after the date of a change in:
 - » Administrator
 - » Alternate Administrator
 - » CFO; or
 - » Controlling person

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§97.243 Administrative and Supervisory Responsibilities

In the state of Texas ACHC will verify that the organization's Administrator and/or alternate Administrator will:

- An Administrator is available to agency personnel in person or by telephone during the agency's operating hours and in accordance with the rules in §97.210, §97.404(h)(2), §97.523, and §97.527.
- An Administrator must designate in writing an agency employee who must provide ACHC/DADS Surveyors entry to the agency if the Administrator and alternate Administrator are not available, and who will:
 - » Supervise to ensure implementation of agency policy and procedures
 - » Ensure that the documentation of services provided is accurate and timely
 - » Supervise and evaluate client satisfaction survey reports on all clients served

§97.243 Administrative and Supervisory Responsibilities

In the state of Texas ACHC will verify the supervising nurse and/or alternate supervising nurse:

- 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.
- Ensure that an appropriate healthcare 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

§97.220 Service Areas

In the state of Texas, ACHC will verify that:

- An agency identifies its licensed service area. A branch office or alternate delivery site must be located within the parent agency's licensed service area. An agency must not provide services outside its licensed service area, except as provided in subsections (i) and (j) of this section.
- An agency must maintain adequate staff to provide services and to supervise the provision of services.
- An agency may expand its service area at any time during the licensure period. An agency must submit a written notice to DADS to expand the agency's service area at least 30 days before the expansion, unless DADS grants the agency an exemption from the 30-day time frame as specified in subsection (d) of this section.
- An agency is exempt from the requirement to submit a written notice to DADS no later than 30 days before the agency expands its service area if DADS determines an emergency situation exists that would affect a client's health and safety:
 - » An agency must notify DADS immediately of a possible emergency situation that would affect a client health and safety.
 - » DADS grants or denies an exemption from the 30-day written notice requirement:
 - If DADS grants an exemption, the agency must submit written notice to DADS, as described in subsection (e) of this section, no later than 30 days after the date DADS grants the exemption.
 - If DADS denies an exemption, the agency may not expand agency's service area until at least 30 days after the agency submits the written notice to DADS as described in subsection (e) of this section.
- If an agency intends to expand or reduce the agency's service area, the agency must submit written notice to DADS by using the Home and Community Support Services Agency License Application (DADS Form 2021) following the instructions on the DADS website for requesting to expand or reduce the agency's service area.

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- An agency may reduce its service area at any time during the licensure period. An agency must submit a written notice to DADS informing DADS that the agency reduced its service area no later than 10 days after the reduction.
- An agency is exempt from the requirements described in subsections (c)-(f) of this section if a temporary expansion results from an emergency or disaster, as specified in §97.256(o) of this subchapter (relating to Emergency Preparedness Planning and Implementation).
- 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 subsection (j), the agency must inform the client that leaving its service area will require the agency to:
 - » Place the client's services on hold in accordance with the agency's written policy required by §97.281 of this subchapter (relating to Client Care Policies) until the client returns to the agency's service area;
 - » Transfer and discharge the client in accordance with §97.295 of this subchapter (relating to Client Transfer or Discharge Notification Requirements) and the agency's written policy required by §97.281 of this subchapter; or
 - » Discharge the client in accordance with §97.295 of this subchapter and the agency's written policy required by §97.281 of this subchapter.

§97.289 Independent Contractors and Arranged Services

In the state of Texas ACHC will verify that:

- If an agency contracts with another agency or organization for an unlicensed person to provide home health services, hospice services, or personal assistance services under arrangement, the agency must ensure that either it or the contracting agency or organization:
 - » Searches the nurse aide registry (NAR) and the employee misconduct registry (EMR) before the unlicensed person's first face-to-face contact with a client of the agency using the DADS internet website to confirm that the unlicensed person is not listed in either registry as unemployable
 - » Provides written information to the unlicensed person about the EMR that complies with the requirements of §93.3(c); and
 - » Searches the NAR and the EMR at least every 12 months using the DADS internet website to confirm that the person is not listed in either registry as unemployable
- If an agency contracts with another agency or organization for an unlicensed person to provide home health services, hospice services, or personal assistance services under arrangement, the agency must ensure that the contracting agency or organization:
 - » Conducts a criminal history check before the unlicensed person's first face-to-face contact with a client of the agency; and
 - » Verifies that there is no finding in the unlicensed person's criminal history information of a conviction that bars employment under the Texas Health and Safety Code §250.006
- Agencies are not required to maintain a personnel record for independent contractors or staff who provide services under arrangement with another agency or organization. Upon request by DADS, an agency must provide documentation at the site of a survey within eight working hours of the request to demonstrate:
 - » That independent contractors or staff under arrangement meets the agency's written job qualifications for the position and duties performed
 - » The agency ensures compliance with subsection (c) of this section for unlicensed staff providing services to the agency's clients under arrangement; and
- The agency complies with subsection (d) of this section for unlicensed staff providing services to the agency's clients under arrangement by providing a written statement that is signed by a person authorized to make decisions on personnel matters for the contracting agency or organization attesting that a criminal history check was conducted before an unlicensed person's first face-to-face contact with a client, and that there is no finding of a conviction barring employment under Texas Health and Safety Code §250.006.

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§97.210 Agency Operating Hours

In the state of Texas ACHC will verify that:

- 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.

§97.249 Self-Reported Incidents of Abuse, Neglect, and Exploitation

In the state of Texas ACHC will verify that:

- 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, within 24 hours, to:
 - » The Department of Family and Protective Services (DFPS) at 1-800-252-5400, or through the DFPS secure website at www.txabusehotline.org; and
 - » DADS at 1-800-458-9858

§97.250 Agency Investigations

In the state of Texas ACHC will verify that:

- Any reports of abuse, neglect, and exploitation:
 - » Immediately upon witnessing the act or upon receipt of the allegation, an agency must initiate an investigation of known and alleged acts of abuse, neglect, and exploitation by agency employees, including volunteers and contractors.
 - » An agency must complete DADS' Provider Investigation Report form and include the following information:
 - Incident date
 - The alleged victim
 - The alleged perpetrator
 - Any witnesses
 - The allegation
 - Any injury or adverse effect
 - Any assessments made
 - Any treatment required
 - The investigation summary; and
 - Any action taken
- An agency must send the completed DADS' Provider Investigation Report form to DADS' Complaint Intake Unit no later than the 10 days after reporting the act to the Department of Family and Protective Services and DADS.
- Agency complaint investigations:
 - » An agency must:
 - Document receipt of the complaint and initiate a complaint investigation within 10 days after the agency's receipt of the complaint; and
 - Document all components of the investigation
- Completing agency investigations:
 - » An agency must complete the investigation and documentation within 30 days after the agency receives a complaint or report of abuse, neglect, and exploitation, unless the agency has and documents reasonable cause for a delay

THIS IS AN ABBREVIATED VERSION OF TEXAS REGULATIONS.

TEXAS SURVEY REQUIREMENTS



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§97.252 Financial Solvency and Business Records

In the state of Texas ACHC will verify that:

- An agency must have the financial ability to carry out its functions.
- An agency must not intentionally or knowingly pay employees or contracted staff with checks from accounts with insufficient funds.
- An agency must have sufficient funds to meet its payroll.
- An agency must make available to DADS upon request business records relating to its ability to carry out its functions. If there is a question relating to the accuracy of the records or the agency's financial ability to carry out its functions, DADS or its designee may conduct a more extensive review of the records.
- An agency must maintain business records in their original state. Each entry must be accurate and dated with the date of entry. Correction fluid or tape may not be used in the record. Corrections must be made in accordance with standard accounting practices.

§97.287 Quality Assessment and Performance Improvement

In the state of Texas ACHC will verify that:

- Agencies maintain a Quality Assessment and Performance Improvement (QAPI) Program that is implemented by a QAPI Committee.
- The QAPI Committee must review and update or revise the plan of implementation at least once within a calendar year, or more often if needed.
- An agency must immediately correct identified problems that directly or potentially threaten the client care and safety.
- QAPI documents must be kept confidential and be made available to DADS staff upon request.
- At a minimum, the QAPI Committee must consist of:
 - » The Administrator
 - » The supervising nurse or therapist, or the supervisor of an agency licensed to provide personal assistance services; and
 - » An individual representing the scope of services provided by the agency
- The QAPI Committee must meet twice a year or more often if needed.

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