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Clarification for Licensure Rules

Our consulting firm recommends permanently posting a sign on the outside of the agency door with information as to how to reach the Administrator, Alternate, or Supervising Nurse and/or Alternate. We want to emphasize to you to also include the answering machine or answering service as part of this process. On 6/1/06, when the new HCSSA rules are in effect, you will see some modifications to this regulation that you will need to implement. ❖

FROM: Veranda L. Durden  
Assistant Commissioner Regulatory Services  
DATE: October 22, 2004

The question of what is required if the HCSSA Administrator and Supervising Nurse and their designees are away from the office, and the office is open and other agency staff are present, does the agency have to post a notice on the door and leave a message on the answering machine with information regarding how to contact the person in charge?

The answer to the question is: If the agency is open and operating during business hours and an agency employee is available to provide contact information, the agency is not required to post contact information on the door or leave a message on the answering machine. However, if the agency is closed or no one is present, and the person in charge which may be the Administrator or alternate, Supervising Nurse, or Alternate, then there must be a notice posted on the door and a message on the answering machine that will provide the information during business hours how to contact the person in charge. For more information on this, see TAC 97.501(a) (4).

IN THIS ISSUE

Houston Zone Office Has Improved Staffing... What Does This Mean? .....	1
New Rules as of 6/1/06.....	1
From the Desk of... ..	2
Spotlight on Key Provider Updates .....	3
Clarification for Licensure Rules.....	4
Calendar of Events .....	4

Calendar of Events

3/21	Management & Evaluation 2:00 p.m.–4:00 p.m.
3/23	How to Run Your Home Health Agency 10:00 a.m.–4:00 p.m.
3/24	Wound Care Documentation 2:00 p.m.–4:00 p.m.
3/30	Learning Hospice 101 9:00 a.m.–5:00 p.m.

Call (832) 237-2525 to request a registration form, or go to [www.ComplianceReviewServices.com](http://www.ComplianceReviewServices.com) to download one.

A publication of  
Compliance Review  
Services, Inc.

COMPLIANCE  
REPORT

MARCH 2006

VOLUME 2, ISSUE 1

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HOUSTON ZONE OFFICE HAS IMPROVED STAFFING!

WHAT DOES THIS MEAN?

By Kimberley Kelly, RN, BSN, LNC

According to a good source, the Houston HCSSA office has 13 surveyors on board and is almost completely fully staffed. This is good news for the Houston-area home health agencies because it means that there should be a lot more surveys going on and the area hopefully will be catching up on its past due surveys. A recent memo indicated that the Houston area may take up to 12 months to survey a new agency. We are quite hopeful that this will no longer be the case.

We recently heard that all Licensed Home Health and Hospice surveys are being caught up so make sure that you are ready to have the surveyors

come in. We advise that you look at the following criteria to determine when you think you may be due for survey:

- 1) If you are a new agency (less than two years old), you should be having an annual survey for the first two years of the business.
- 2) Look at your license expiration date; this will help give you an idea when your survey will be due.
- 3) Look at when you had your last survey and the findings from that survey; this will also key you in to when your next survey is due.
- 4) BE READY—All Medicare surveys are announced whether through State, JCAHO, or CHAPS! Questions? Call us at (832) 237-2525. ❖

NEW RULES AS OF 6/1/06

By Kimberley Kelly, RN, BSN, LNC

Most healthcare providers have heard the news that there are new regulations that will take effect on 6/1/06. What you may not realize is that the rule revisions are happening in two separate steps. The first rule set has been revised and should be posted to the Texas Register by 3/3/06. Each agency should be downloading these revised rules and become very familiar with them between now and 6/1/06.

In addition, these rule changes will need to be incorporated into the agency's policies, procedures, and applicable forms. Compliance Review Services, Inc., anticipates having an update package available

by 5/1/06 for agencies to purchase to update their policies and procedures to the new regulations.

The agency management and field staff will need to be educated to these changes as well. Compliance Review Services, Inc., will hold educational in-services on the rule changes on 4/20/06, 5/10/06, and 5/18/06. If you would like to sign up for a class, please call (832) 237-2525 and ask for Marie Luque, or download the registration form from our web site at [www.ComplianceReviewServices.com](http://www.ComplianceReviewServices.com). Texas Association for Home Care (TAHC) will also be offering in-services on the rule changes. Please see their web site for this information. ❖

Kimberley Kelly is a  
Registered Nurse,  
Consultant Monitor  
for Texas, Member of  
the HCSSA External  
Work Group for Rule  
Review, and an  
approved BNE  
monitor

## From the Desk of...

The following memorandums clarify the length of time for validity of information on Form CMS-855 and when HCSSA providers should check registries S & CC 06-03. ❖

February 8, 2006

REGIONAL SURVEY AND CERTIFICATION LETTER NO. 06-04

TO: All State Survey Agencies  
All Title XIX Single State Agencies

SUBJECT: Length of time for validity of information on Form CMS-855

The following information concerning CMS-855A approvals should be considered when state agencies are processing initial applications for Medicare certification.

For delays in processing due to the applicants action or inaction: If the application is over six months old the provider applicant must update the 855A or resubmit the current Form CMS-855A, whichever is applicable, and sign a new certification statement. This updated resubmittal must be sent to the intermediary. The intermediary will transmit the updated information to the state agency and RO.

For delays in processing due to state agency processing or scheduling: an update or resubmission of Form CMS-855A is not required, even if the application takes more than six months from the time of submission until the applicant has passed a state survey or obtained accreditation. (Program Integrity (PUB.100-08) Chapter 10 - Healthcare Provider/Supplier Enrollment; 12-State Survey/RO Process- Rev. 41, 05-23-03)

Unless the state agency or RO informs the intermediary that the delay was caused by the applicant, the intermediary will assume that the delay is due to state agency processing or scheduling and will not require an update or resubmission of Form CMS-855A.

If you have any questions concerning this process, please contact Jann Caldwell, of my staff, at (214) 767-4401.

Sincerely,  
Diane Wade  
Acting Associate Regional Administrator

TO: Regulatory Services  
Regional Directors and State Office Managers

FROM: Veranda L. Durden  
Assistant Commissioner Regulatory Services

SUBJECT: Clarification on when HCSSA providers should check registries - S&CC 05-03

APPLIES TO: Home and Community Support Services Agencies (HCSSA)

DATE: January 31, 2006

Do home health and hospice agencies need to check the Employee Misconduct Registry (EMR) and the Nurse Aide Registry (NAR) on employees who were hired prior to February 2, 2002?

No, home health and hospice agencies do not need to check the EMR and NAR on employees who have been continuously employed prior to February 2, 2002. However, it is a best practice to periodically check the registries on all employees who have worked for an agency for many years. If an employee left employment with an agency, then returned, the rehiring of an employee does subject that person to a check of the EMR and NAR.

For questions concerning this memorandum, please contact Mary Valente, Program Manager, Policy Development and Support, at (512) 438-2440.

According to the 2005 findings from Gallup's annual poll on honesty and ethics of professions, nurses hold a substantial lead over other professions relating to honesty and ethics of people in different professional fields. The Gallup Poll asked Americans to rate the honesty and ethical standards of members of the professions on a five-point scale that ranges from "very high" to "very low." Of the 21 professions tested this year, nurses came in at 82% for "high ethical" ratings. Pharmacists had 67%, medical doctors 65%, school teachers 64%, police officers 61%, and clergy 54%.

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## SPOTLIGHT ON Key Provider Updates

### New Home Health Advance Beneficiary Notice

#### (HHABN) Must Be Implemented by 6/1/06

CMS has recently revised its HHABN in both English and Spanish. Agencies are required to use the form as soon as possible and must complete the transition by 6/1/06. To download it, go to [www.ComplianceReviewServices.com](http://www.ComplianceReviewServices.com), click "Special Bulletins," and look for the "3-16-06 Updated HHABN Forms" heading.

### Days to Complete Plan of Correction

When we do a plan of correction, we have 45 days to complete the state tags (if they are not a level one or two) and 60 days to complete the federal tags. The countdown begins the day the agency receives the written notice of citations from the surveyors. This information is from Michelle V. at Texas Department of Aging & Disability Services (DADS).

### Pre-Survey Suspended March and April

In a recent memo from Veronda Durden (provider letter #06-05), it was announced that pre-survey conference is suspended for the months of March and April 2006. The curriculum is being revised due to the release of new rules coming out on 6/1/06.

### CDC Finalizes New TB Guidelines

In January of 2006, the Centers for Disease Control released their new guidelines for TB which included home-based health care settings. Please make sure that you download a copy of the new guidelines from <http://www.cdc.gov/mmwr>. Compliance Review Services, Inc., is currently crosswalking these guidelines to update their policies and procedures as applicable. If you need a policy update, please contact Kimberley Kelly, RN, BSN, LNC, CEO of Compliance Review Services, Inc.

### LVNs and Pronouncement of Death

Pamela Bailey, RN, Consultant, of Compliance Review Services, Inc., corresponded with Carol Marshall of the Texas Board of Nurse Examiners about LVNs pronouncing death. The response that she got is as follows:

Laws re: pronouncement of death are not contained within the NPA and BNE rules. LVNs cannot pronounce death in the State of Texas. If a LVN reports his/her assessment findings to a physician, the physician may decide to take on the responsibility of telephonically pronouncing death. The physician may not delegate pronouncement of death to the LVN. Information on law in the TX Health and Safety code is elaborated on our web page under "Nursing Practice Information" and then under "Pronouncement of Death."

### New I-9 Released 6/21/05

A new I-9 form was released and on the form it shows "Rev. 5/31/05". Make sure that your agency is using the most updated form. The main web site for employer-based immigration is available from USCIS Office of Business Liaison at <http://uscis.gov/graphics/services/employerinfo/eibulletin.htm>.

### Separate Entities Clarified

In a recent clarification from Austin Department of Aging and Disability Services, PAS category patients are not subject to the separate entity rule. What this means is that you do not have to supervise your PAS attendants with an RN every 2 weeks if a separate entity is not established. The separate entity rules were established for Licensed & Certified agencies and Licensed Home Health. PAS is exempt. ❖



### LNC Marketing & Report Writing

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