



COMMISSIONER
Chris Traylor

August 31, 2010

To: Home and Community Support Services Agencies

Subject: **Provider Letter #10-37** – Annual Checks of the Employee Misconduct Registry and Nurse Aide Registry

Effective: September 1, 2010

In response to Senate Bill 806, 81st Legislature, Regular Session, 2009, the Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of Aging and Disability Services (DADS), adopted several rule amendments to Texas Administrative Code (TAC) Title 40, Part 1, Chapter 97, Licensing Standards for Home and Community Support Services Agencies (HCSSAs), effective September 1, 2010. Additional changes effective September 1, 2010 are also outlined in this letter. The changes include:

- In addition to an initial search (upon an employee's hire) of the Nurse Aide Registry and the Employee Misconduct Registry, a HCSSA must search both registries annually for unlicensed employees and volunteers whose duties include face-to-face client contact. The registries must be checked using the DADS website at <http://www.dads.state.tx.us/providers/employability/esearch.cfm>. {§97.247}
- A HCSSA must also document the searches and keep a copy of both the initial search and annual search in the employee's personnel record. {§97.246}
- In accordance with 40 TAC Chapter 93, Employee Misconduct Registry, a HCSSA must provide written information about the Employee Misconduct Registry to an unlicensed volunteer or employee within five working days of the date of a person's first face-to-face contact with a client. {§97.247}
- Current rules require a HCSSA that provides services under an arrangement with another agency or organization to have a contract between each agency or organization and the HCSSA. Rule revisions clarify the types of services that are performed (home health services, hospice services, or personal assistance services). {§97.289}
- A HCSSA must ensure that either it or a contracting agency or organization follows the new requirements relating to the Nurse Aide Registry and Employee Misconduct Registry as required in §§97.246 and 97.247. {§97.289}
- A HCSSA must maintain the signed statement about compliance with agency policies referred to in §97.245(b)(10) in the personnel record of direct care staff. {§97.246}

You may access the new rules starting September 1, 2010, on the DADS website at <http://www.dads.state.tx.us/handbooks/lshcssa/>. Please review the revision notice at <http://www.dads.state.tx.us/handbooks/lshcssa/revisions/index.htm> for a summary of all changes made to 40 TAC Chapter 97, effective September 1, 2010.

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If you have questions regarding the content of this letter, please contact a HCSSA policy specialist in the Policy, Rules and Curriculum Development unit at (512) 438-3161.

Sincerely,

[signature on file]

Veronda L. Durden
Assistant Commissioner
Regulatory Services

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