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Texas Non-Medical Home Care Regulatory Reference

Home and Community Support Services Agencies — Personal Assistance Services

Prepared for a private-pay Texas agency providing non-medical personal assistance and attendant services in clients' homes.

This is an operational reference and compliance-planning guide. It is not legal advice and does not replace the official Texas statutes, Administrative Code, HHSC provider letters, licensing instructions, or payer contracts.

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Review at least annually and whenever HHSC publishes an HCSSA rule change or provider letter.

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Contents

1. Executive Overview

Texas regulatory classification. A non-medical senior home care company that provides personal assistance services for pay generally operates as a licensed Home and Community Support Services Agency (HCSSA) with the license category of Personal Assistance Services (PAS).

Primary authorities:

- Texas Health and Safety Code, Chapter 142 — Home and Community Support Services Agencies.
- 26 Texas Administrative Code, Part 1, Chapter 558 — Licensing Standards for Home and Community Support Services Agencies.
- 26 TAC §558.404 — Additional standards specific to agencies licensed to provide Personal Assistance Services.
- 26 TAC Chapter 560 — licensing denial, suspension, revocation, and related enforcement provisions, when applicable.
- Texas Human Resources Code and HHSC program rules when the agency participates in Medicaid attendant programs.

This guide assumes the agency provides PAS only and does not provide skilled nursing, licensed home health, hospice, home dialysis, or Medicare-certified services. Those service categories require additional rules and clinical infrastructure.

2. Regulatory Source Map

Authority	Primary Subject	Regulator	Applicability
Health & Safety Code Ch. 142	HCSSA statutory authority, licensing, surveys, complaints and enforcement	Texas HHSC	All licensed HCSSAs
26 TAC Ch. 558, Subch. A–C	Definitions, licensing, administration and minimum standards	Texas HHSC	All HCSSAs
26 TAC §558.404	PAS-specific service and personnel standards	Texas HHSC	PAS license category
26 TAC Ch. 558, Subch. E–F	Surveys and enforcement	Texas HHSC	All HCSSAs
26 TAC §558.701	Home health aide standards	Texas HHSC	Only when home health aides are used under applicable categories
Medicaid program rules	Eligibility, authorizations, EVV, billing and documentation	Texas HHSC/MCOs	Only for Medicaid-funded services

3. HCSSA Licensing Requirements

3.1 License Category and Scope

- Obtain an HCSSA license with the Personal Assistance Services category before providing regulated services for pay.
- Operate only within the categories and service areas shown on the license.
- Display the license as required and use the licensed legal name or approved assumed name.
- Notify HHSC and obtain approval when required for changes in ownership, controlling persons, location, service area, category, administrator, or alternate administrator.

- Do not advertise or represent the agency as providing skilled nursing, home health, hospice, or other licensed services unless those categories are approved.

3.2 Initial Application and Survey Readiness

- Complete HHSC's required pre-survey computer-based training for the administrator and alternate administrator.
- Submit the licensing application, fees, ownership disclosures, controlling-person information, criminal-history information, and supporting documents required by HHSC.
- Develop operational policies and procedures that meet Chapter 558 before accepting clients.
- Maintain evidence that the agency can provide services, supervise staff, respond to complaints, protect records, and implement emergency procedures.
- Prepare for the initial licensing survey and correct any cited violations through an acceptable plan of correction.

3.3 Renewal and Change Reporting

- Track the license expiration date and submit a complete renewal application and fee before the deadline.
- Keep ownership, management, address, telephone, email, and service-area information current with HHSC.
- Report changes within the timeframes required by Chapter 558 and current HHSC instructions.
- Retain copies of applications, approvals, correspondence, surveys, plans of correction, and provider letters.

4. Governance and Administration

4.1 Administrator and Alternate Administrator

Each licensed HCSSA must designate one administrator and one alternate administrator. The alternate acts in the administrator's absence. HHSC clarified that multiple administrators are not permitted for one agency license.

- For a PAS-only agency, the administrator and alternate must meet at least one qualification pathway in 26 TAC Chapter 558, including the PAS-specific education, experience, or training standards.
- Maintain written designation documents and proof of qualifications.
- Ensure both individuals complete required pre-survey and administrative training before or within applicable regulatory timeframes.
- Maintain documentation of required continuing education for administrators and alternate administrators.
- Define who has authority during evenings, weekends, emergencies, and planned absences.

4.2 Administrator Responsibilities

- Implement and enforce the agency's policies and procedures.
- Oversee daily operations, staffing, client services, records, complaints, incidents, quality review, and regulatory reporting.
- Ensure employees and contractors are qualified, competent, oriented, supervised, and assigned within their scope.
- Maintain compliance with federal, state, and local laws, including employment, privacy, emergency preparedness, and abuse-reporting requirements.
- Ensure HHSC representatives have access to records and personnel during surveys and investigations.

4.3 Governing Body and Policy Control

- Maintain a governing body or responsible ownership structure with ultimate accountability for agency operations.
- Adopt written policies addressing administration, personnel, client care, complaints, emergency preparedness, quality assurance, records, and infection control as applicable.

- Review policies periodically and revise them when laws, services, or operational practices change.
- Maintain a master policy index with approval dates, effective dates, revision history, and responsible owners.

5. Personnel and Attendant Requirements

5.1 Hiring and Screening

- Verify identity, eligibility to work, qualifications, references, and required criminal-history or registry checks before assignment.
- Check applicable employee-misconduct and nurse-aide registries and document the results when required.
- Do not employ or assign an individual who is barred by law, listed as unemployable, or otherwise disqualified from client contact.
- Maintain a personnel file for every employee and contractor used to provide services.
- Use written job descriptions that state duties, qualifications, supervision, reporting expectations, and prohibited activities.

5.2 Orientation and Competency

- Complete orientation before the attendant provides services independently.
- Cover client rights, abuse and neglect reporting, confidentiality, emergency procedures, infection prevention, incident reporting, documentation, and agency policies.
- Verify competency for every assigned task, including transfers, bathing, toileting, meal assistance, mobility, and other personal-care activities.
- Provide task-specific training when the client's needs or service plan requires it.
- Document orientation, training dates, instructor, content, competency validation, and corrective retraining.

5.3 Permitted Personal Assistance Services

PAS commonly includes non-technical assistance with activities of daily living and instrumental activities of daily living, such as:

- Bathing, grooming, dressing, toileting, and personal hygiene
- Ambulation, transfers, positioning, and mobility assistance
- Meal planning, meal preparation, and feeding assistance
- Light housekeeping, laundry, shopping, and errands
- Companionship, protective supervision, and accompaniment
- Medication reminders or assistance only to the extent permitted by law and agency policy

The agency must evaluate the actual task, client condition, attendant competency, and legal limits. "Non-medical" does not authorize attendants to perform nursing assessment, make clinical decisions, administer medications unlawfully, or perform tasks reserved to licensed professionals.

5.4 Employee versus Independent Contractor

- The HCSSA remains responsible for compliance when services are delivered under its license, regardless of payroll label.
- Worker classification must satisfy federal and Texas employment and tax law; a contract alone does not make an attendant an independent contractor.
- Policies should address supervision, scheduling, documentation, client complaints, confidentiality, and replacement coverage for every worker used by the agency.

6. Client Admission and Service Delivery

6.1 Admission and Acceptance

- Accept a client only when the agency can safely meet the person's needs within its licensed category, service area, staffing capacity, and personnel competency.
- Gather sufficient information about functional needs, risks, medications, allergies, mobility, cognitive status, emergency contacts, and the home environment.
- Identify tasks that are outside PAS scope and refer the client to an appropriate licensed provider when necessary.
- Document the admission decision and the responsible person who approved it.

6.2 Service Plan and Client Agreement

- Develop a written plan of care or service plan describing authorized services, frequency, schedule, goals or needs, attendant instructions, and supervision.
- Provide a written client agreement describing rates, billing, schedules, cancellation terms, responsibilities, complaint procedures, and termination provisions.
- Obtain required signatures and provide the client or representative with copies.
- Review and update the service plan when needs, risks, tasks, schedule, or responsible parties change.
- Ensure attendants can access the current service instructions while protecting confidentiality.

6.3 Client Rights and Responsibilities

- Provide written notice of client rights before or at admission.
- Protect the client's dignity, privacy, property, choice, participation, and freedom from abuse, neglect, exploitation, discrimination, and retaliation.
- Explain how to submit a complaint to the agency and to Texas HHSC.
- Document receipt of rights and any authorized representative information.
- Maintain policies for advance directives when applicable to the agency's services and legal obligations.

6.4 Supervision and Monitoring

- Monitor whether services are delivered according to the service plan and schedule.
- Conduct supervisory contacts or visits at the frequency required by the PAS rules, payer contract, client condition, and agency policy.
- Evaluate attendant performance, client satisfaction, missed visits, documentation, safety concerns, and changes in condition.
- Document corrective action, retraining, reassignment, or escalation when performance is deficient.

7. Documentation and Record Management

7.1 Client Records

- Maintain admission information, assessments, agreements, rights notices, service plans, authorizations, visit records, supervisory notes, incidents, complaints, and discharge documentation.
- Ensure service records accurately show the date, time, duration, worker, tasks performed, exceptions, observations, and required signatures or electronic verification.
- Correct records using an auditable process; do not erase, backdate, or conceal an original entry.
- Retain records for the period required by Chapter 558, payer rules, litigation holds, and other applicable laws.

7.2 Personnel Records

- Maintain applications, job descriptions, references, screening results, registry checks, orientation, training, competency, evaluations, disciplinary actions, and separation records.
- Track expiring credentials, training requirements, driver documents, and insurance when driving is part of the assignment.
- Protect personnel information and disclose it only as authorized or required by law.

7.3 Confidentiality and Electronic Systems

- Limit access to client information based on job duties.
- Use secure passwords, role-based permissions, backups, device controls, and procedures for lost devices or improper disclosures.
- Maintain business-associate agreements and HIPAA controls when the agency is a covered entity or business associate.
- Train staff not to use personal texting, photographs, social media, or unsecured email for protected client information.

8. Complaints, Incidents, and Mandatory Reporting

8.1 Complaint Process

- Maintain a written process for receiving, investigating, resolving, documenting, and trending complaints.
- Provide complaint contact information to clients and employees.
- Prohibit retaliation against a person who makes a complaint or participates in an investigation.
- Respond within required timeframes and retain investigation records.

8.2 Abuse, Neglect, and Exploitation

- Immediately protect the client and obtain emergency assistance when needed.
- Report suspected abuse, neglect, or exploitation to the proper state authority within the legally required timeframe.
- Remove an accused worker from client contact when necessary to protect clients and comply with law.
- Cooperate with HHSC, law enforcement, Adult Protective Services, and other authorized investigators.
- Document the allegation, protective actions, reports, investigation, findings, and corrective action.

8.3 Significant Incidents and Changes in Condition

- Establish escalation procedures for falls, injuries, medication concerns, missing clients, hospitalizations, unsafe homes, service interruptions, and caregiver misconduct.
- Notify the client representative, physician or other provider, emergency services, payer, or HHSC when required.
- Document who was contacted, when, instructions received, and follow-up actions.

9. Emergency Preparedness

Every HCSSA must maintain a written emergency preparedness and response plan appropriate to its services, clients, geography, and hazards. The plan should address:

- Risk assessment and likely hazards

- Emergency command and staff responsibilities
- Communication with clients, representatives, employees, HHSC, emergency management, and other providers
- Identification and prioritization of clients who may need assistance
- Continuity or interruption of services
- Evacuation and shelter-in-place considerations
- Backup staffing, records access, utilities, transportation, and communications
- Annual review, staff training, drills or exercises, and after-action improvement

PAS agencies should not promise evacuation or transportation capabilities they cannot reliably provide. The client-specific emergency plan and the agency-wide plan should clearly define responsibilities.

10. Quality Assessment and Performance Improvement

- Conduct ongoing review of service quality, client outcomes, complaints, incidents, missed visits, staff performance, and regulatory compliance.
- Use measurable indicators and document findings, corrective actions, responsible persons, and follow-up dates.
- Review a representative sample of client and personnel records.
- Use trends to revise training, supervision, staffing, policies, and risk controls.
- Maintain governing-body or management review of quality activities.

11. Medicaid and Government-Funded Services

A private-pay HCSSA license does not automatically authorize Medicaid billing. Additional enrollment, contracting, program, and billing requirements apply to services such as Primary Home Care, Community Attendant Services, Family Care, STAR+PLUS, waiver programs, or other Medicaid-funded attendant services.

- Complete provider enrollment and managed-care credentialing as applicable.
- Follow program-specific eligibility, assessment, authorization, service-plan, attendant, supervision, and billing rules.
- Use Electronic Visit Verification when required and reconcile exceptions promptly.
- Bill only authorized, documented, actually delivered services.
- Maintain records for audits, overpayment review, program integrity, and payer contract requirements.
- Keep Medicaid policies and forms separate from private-pay policies when requirements differ.

12. Operational Compliance Checklist

Area	Control	Status / Notes
License	Active HCSSA-PAS license and approved service area verified.	☐ Complete ☐ Review Needed
Administrator	One qualified administrator and one qualified alternate are designated.	☐ Complete ☐ Review Needed
Training	Pre-survey and required administrative training certificates are maintained.	☐ Complete ☐ Review Needed

Policies	Chapter 558-compliant policies are approved and current.	☐ Complete ☐ Review Needed
Screening	Required criminal-history and registry checks are complete before assignment.	☐ Complete ☐ Review Needed
Personnel	Job descriptions, orientation, competency, and supervision are documented.	☐ Complete ☐ Review Needed
Admission	Clients are accepted only when needs fall within PAS scope and agency capacity.	☐ Complete ☐ Review Needed
Agreement	Signed client agreement, rights notice, and complaint information are provided.	☐ Complete ☐ Review Needed
Service Plan	Current written plan identifies tasks, frequency, schedule, and instructions.	☐ Complete ☐ Review Needed
Visit Records	Dates, times, duration, tasks, exceptions, and worker identity are documented.	☐ Complete ☐ Review Needed
Supervision	Client and attendant supervision is performed and recorded.	☐ Complete ☐ Review Needed
Incidents	Falls, injuries, abuse allegations, and changes in condition are escalated.	☐ Complete ☐ Review Needed
Complaints	Complaints are investigated, resolved, retained, and trended.	☐ Complete ☐ Review Needed
Emergency Plan	Agency and client-specific emergency procedures are current.	☐ Complete ☐ Review Needed
Quality Review	Quality indicators and corrective actions are documented.	☐ Complete ☐ Review Needed
Renewal	License renewal and change-reporting deadlines are calendared.	☐ Complete ☐ Review Needed
Medicaid	No government-funded services are billed without separate enrollment and authorization.	☐ Complete ☐ Review Needed

13. Regulations to Retrieve for a Texas PAS Agency

Core private-pay PAS materials:

- Texas Health and Safety Code, Chapter 142 — copy the complete current chapter.
- 26 TAC Chapter 558, Subchapter A — General Provisions.
- 26 TAC Chapter 558, Subchapter B — Criteria and Eligibility, Application Procedures, and Issuance of a License.
- 26 TAC Chapter 558, Subchapter C — Minimum Standards for All HCSSAs, including all divisions.
- 26 TAC §558.404 — Standards Specific to Agencies Licensed to Provide Personal Assistance Services.
- 26 TAC Chapter 558, Subchapter E — Licensure Surveys.
- 26 TAC Chapter 558, Subchapter F — Enforcement.

- 26 TAC Chapter 560 — applicable denial, suspension, revocation, and enforcement rules.
- Current HHSC HCSSA provider letters, FAQs, licensing forms, and emergency-preparedness guidance.

Conditional materials:

- 26 TAC §558.401 or §558.402 if adding licensed home health or Medicare-certified home health services.
- 26 TAC hospice provisions if adding hospice services.
- 26 TAC §558.405 if adding home dialysis services.
- 26 TAC §558.701 if employing home health aides under a category to which the rule applies.
- Applicable Medicaid program rules, handbooks, EVV requirements, and managed-care contracts if billing Medicaid.
- Texas labor, wage, unemployment, workers' compensation, transportation, privacy, and occupational-safety requirements applicable to the workforce and services.

14. Recommended Policy Manual Sections

- Governance, license maintenance, and change reporting
- Administrator and alternate administrator qualifications and duties
- Client admission, scope review, and service refusal
- Client rights, complaints, nondiscrimination, and non-retaliation
- Service agreements, assessments, service plans, and discharge
- Personnel screening, registry checks, job descriptions, and files
- Orientation, competency, continuing education, and supervision
- Permitted PAS tasks and prohibited clinical activities
- Medication reminders and medication assistance boundaries
- Missed visits, late arrivals, backup staffing, and after-hours coverage
- Change in condition, incident reporting, and emergency response
- Abuse, neglect, exploitation, and mandatory reporting
- Emergency preparedness and continuity of operations
- Documentation, record correction, retention, privacy, and cybersecurity
- Quality assessment, audits, corrective action, and governing-body review
- Medicaid, EVV, billing integrity, and overpayments, if applicable

15. Official Sources and Verification Links

Texas HHSC — HCSSA Statutes and Rules: https://www.hhs.texas.gov/providers/long-term-care-providers/home-community-support-services-agencies-hcssa/hcssa-statutes-rules

Texas HHSC — How to Become a Licensed HCSSA Provider: https://www.hhs.texas.gov/providers/long-term-care-providers/home-community-support-services-agencies-hcssa/how-become-a-licensed-hcssa-provider

Texas HHSC — HCSSA Training: https://www.hhs.texas.gov/providers/long-term-care-providers/home-community-support-services-agencies-hcssa/hcssa-training

Texas HHSC — HCSSA Emergency Preparedness: https://www.hhs.texas.gov/providers/long-term-care-providers/home-community-support-services-agencies-hcssa/hcssa-emergency-preparedness

Texas Legislature — Health and Safety Code Chapter 142 PDF: https://statutes.capitol.texas.gov/docs/hs/pdf/hs.142.pdf

Texas Administrative Code — Chapter 558 landing page (public rule access):
https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=26&pt=1&ch=558

Texas HHSC — HCSSA FAQs: https://www.hhs.texas.gov/sites/default/files/documents/hcssa-faqs.pdf

16. Regulatory Use Notice

The Texas Administrative Code and Texas statutes control if this guide differs from an official requirement. HHSC may issue new provider letters, application instructions, interpretive guidance, emergency rules, or enforcement policies after this document's preparation date. Verify the current rules before applying, renewing, changing ownership, adding a service category, responding to a survey, or implementing a policy change.

Document date: August 6, 2026. Review at least annually and whenever HHSC publishes an HCSSA rule change or provider letter.