



COMMISSIONER
Jon Weizenbaum

Date: July 5, 2016

To: Home and Community Support Services Agencies (HCSSAs)

Subject: Provider Letter No. 16-22 — HCSSA Self-reports of Abuse, Neglect and Exploitation and Provider Investigation Report Form (DADS Form 3613) (Replaces PL 06-12)

A HCSSA must self-report all allegations of abuse, neglect and/or exploitation (ANE) to both the Texas Department of Family and Protective Services (DFPS) and the Texas Department of Aging and Disability Services (DADS) as required by [Texas Health and Safety Code §142.018](#) and the [Texas Administrative Code \(TAC\), Title 40, Part 1, Chapter 97, §97.249](#).

DFPS investigates allegations of ANE of HCSSA clients under Texas Human Resources Code (THRC) Chapter 48. When an allegation of ANE committed by a HCSSA employee is substantiated, DFPS refers the name of the HCSSA employee to the Employee Misconduct Registry. DADS conducts a survey or a desk review in response to reported incidents to determine if the HCSSA violated any licensing rules or federal certification requirements. Below are the definitions and the updated guidance for HCSSAs reporting ANE.

Definitions

The [HCSSA licensing rule at 40 TAC §97.249](#) refers to the [Texas Human Resources Code \(THRC\), §48.002](#). Moreover, §48.002 gives Texas Health and Human Services Commission Executive Commissioner authority to define ANE, in rule, for the purposes of investigating allegations of ANE perpetrated by employees of licensed HCSSAs against HCSSA clients. DFPS adopts those definitions in the TAC, Title 40, Part 19, Chapters [705](#) and [711](#).

Reporting Process

A HCSSA with “cause to believe” (as the term is defined in [40 TAC §97.249](#)) that a client has been abused, neglected or exploited by an employee, volunteer or contractor of the agency must report the information within 24 hours to:

1. DFPS at 1 (800) 252-5400: DFPS staff is available 24 hours a day, seven days a week to receive ANE reports. An intake ID number will be provided to document the report. Reports to DFPS may also be made via the [DFPS secure website](#).
2. DADS at 1 (800) 458-9858: ANE incidents are to be reported to this telephone number regardless of the day or hour. After normal business hours, and on weekends and holidays, callers must leave a message. These messages are monitored and timely contacts are made to obtain details and confirm receipt of the report. [Reports to DADS may also be made online](#).

When making a report to DADS, the HCSSA must provide as much of the following information as possible:

- The reporting person's name and title.
- The HCSSA name, address, telephone number and license number.
- The name of the individual who reported the allegation.
- The date and time the HCSSA first became aware of the alleged reportable conduct.
- The name, date of birth, social security number and payment source (including DADS contracted services, if applicable) of the client involved.
- Services provided (type of services, number of hours).
- The client's medical history, diagnoses, cognitive status and functional assistance needs status.
- The date, time and location of the reportable conduct.
- The type of reportable conduct (abuse, neglect, or exploitation).
- A detailed narrative as well as specifics of the allegation.
- The name of the alleged perpetrator and his or her contact information.
- The names of witnesses and others who may have relevant information.
- Any injury or adverse effect (including hospitalization), assessments made, treatment required or preliminary action taken.
- Any immediate actions taken by the agency to protect the health and safety of the client and to prevent recurrence.
- Verification that the incident was reported to DFPS (DFPS "Call ID No.") prior to the oral report to DADS.

A HCSSA must also have written policies and procedures for investigating reports of ANE. The policies and procedures must meet the following requirements (40 TAC §97.250):

- The HCSSA must initiate an investigation of known and alleged acts of ANE by HCSSA employees, including volunteers and contractors, immediately upon witnessing the act or upon receipt of the allegation.
- The HCSSA must send a written investigation report regarding the incident of reportable conduct to DADS Consumer Rights and Services - Complaint Intake Unit no later than the 10th calendar day after reporting the act to DADS and DFPS.
- The agency must complete the written report using [Form 3613, Provider Investigation Report](#).

If Form 3613, with statements and other relevant documentation, is 15 pages or fewer, email the cover sheet, report and attachments to CRSProvider@dads.state.tx.us or fax it toll-free to DADS at 1-877-438-5827. If the report is 16 pages or more, email the cover sheet, report and attachments to CRSProvider@dads.state.tx.us or mail it to DADS at the address shown on [Form 3613](#).

You may choose to either email, fax **or** mail the report and any attachments, based on the length of the report. Choose **only one** option of email, fax, or mail.

Provider Letter No. 16-22

July 5, 2016

Page 3

While the HCSSA must obtain enough information to complete and submit the Provider Investigation Report no later than the 10th calendar day after the oral report, the HCSSA may forward any additional information discovered after the Provider Investigation Report is sent to DADS Consumer Rights and Services - Complaint Intake Unit. The HCSSA should use the [Form 3613](#) fax coversheet for any documents emailed, mailed or faxed as additional information.

If the HCSSA is emailing, mailing or faxing more than one provider investigation report to DADS, the reports may not be combined and sent as one report. One investigation report ([Form 3613](#)) – including one fax cover sheet – must be used for each incident. Mark the DADS Intake ID Number on each page of the report, including the cover sheet and each page of every attachment.

Inpatient hospice facilities are also required to follow these guidelines for reportable incidents. Additionally, inpatient hospice facilities should carefully review falls, altercations and similar events to determine if reportable neglect occurred.

If you have any questions, please contact the Policy, Rules, and Curriculum Development section at (512) 438-3161.

Sincerely,

[signature on file]

Mary T. Henderson
Assistant Commissioner
Regulatory Services

MTH:cg