



COMMISSIONER
Jon Weizenbaum

Date: October 12, 2016

To: Home and Community Support Services Agencies (HCSSAs)

Subject: Provider Letter No. 16-36 – Clarification of Abuse, Neglect and Exploitation (ANE) Self-Reporting and “Duty to Report” Requirements

A HCSSA is required by the Texas Administrative Code, Title 40, Part 1, Chapter 97, §[97.249](#), to self-report to both the Texas Department of Aging and Disability Services (DADS) and the Texas Department of Family and Protective Services (DFPS) incidents of ANE of HCSSA clients by HCSSA staff. By contrast, HCSSA employees, as well as all citizens, are required by the Texas Human Resources Code (THRC), §[48.051](#)(a) and the Texas Family Code (TFC) §[261.101](#)(a) to report any suspected ANE to DFPS. This second requirement is commonly referred to as the “duty to report.”

The self-reporting requirement and the duty to report are not new, but they can be confusing. This letter clarifies the types of incidents that a HCSSA must self-report as well as which incidents are reportable only to DFPS because of the duty to report.

Self-Reporting Requirements

The licensure rules require that a HCSSA adopt and enforce a written policy on reporting alleged acts of ANE of a client by an employee of the agency. If a HCSSA has cause to believe that a client served by the agency has been abused, neglected, or exploited **by an agency employee**, the HCSSA must report the information within 24 hours to both DADS and DFPS. The term “employee” includes an individual employed directly by a HCSSA, a contractor or a volunteer. HCSSAs are not required to self-report incidents that do not involve an employee of the HCSSA. For more information about self-reporting requirements and procedures, please refer to [PL 16-22](#).

Duty to Report

A HCSSA (as well as any citizen) has a duty to report to DFPS any suspicion that an individual (adult or child, client or non-client) “is in the state of abuse, neglect, or exploitation.” The duty to report is found in the THRC §48.051(a) for adults and in the TFC §261.101(a) for children. The duty to report applies in all situations of suspected ANE regardless of whether the incident involves a client or an employee of the HCSSA. A HCSSA should call DFPS at **1-800-252-5400** to make a report any time the agency suspects ANE of a client or other individual. Again, while incidents that do not involve employees and clients of the HCSSA must be reported to DFPS, they do not need to be reported to DADS.

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The following are examples of incidents that would be reported to DFPS but not to DADS:

- A HCSSA client or family member is in a state of self-neglect. The situation existed prior to the initiation of HCSSA services or developed independent of any action or non-action by a HCSSA employee, volunteer or contractor.
- A HCSSA client or client's family member has been abused, neglected, or exploited by another family member or caretaker who was not an employee, volunteer or contractor of the HCSSA.

If you have any questions about this letter, please contact the Policy, Rules and Curriculum section at 512-438-3161.

Sincerely,

[signature on file]

Mary T. Henderson
Assistant Commissioner
Regulatory Services

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