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Services

Texas Administrative Code Changes for HCS and TxHmL Effective October 1, 2019

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Purpose for Rule Changes

- Consolidate and organize the requirements related to abuse, neglect, and exploitation of an individual
- Add specificity and new requirements to the current ANE requirements
- Transition of the Department of Family and Protective Services investigations to Health and Human Services Commission investigations



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What's Changed

- New Definitions
- New §9.175 Certification Principles: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual
- New §9.585. Certification Principles: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual
- New Training Requirements



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What's Changed

- Other Miscellaneous Changes
 - Local Intellectual and Developmental Disability Authorities changes in the investigatory process for ANE
 - Service provider requirements for a Behavior Analyst to be licensed in accordance with Texas Occupations Code, Chapter 506
 - Critical Incident Reporting
 - Delete rules pertaining to Social Work in TxHmL
- Changes in 40 TAC Chapter 49, Contracting for Community Services



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New Definitions

- Abuse
- Alleged perpetrator
- Chemical restraint
- Controlling person
- Exploitation
- Mechanical restraint
- Neglect
- Physical abuse
- Physical restraint
- Restraint
- Sexual abuse
- Sexual activity
- Sexual exploitation
- Verbal or emotional abuse
- Volunteer



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New Sections

HCS - §9.175 Certification Principles: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual.

TxHmL - §9.585. Certification Principles: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual.



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New Training Requirements

- Ensure that each staff member, service provider, and volunteer are trained and knowledgeable of signs and symptoms of abuse, neglect, and exploitation
- Conduct training activities related to ANE before a staff member, service provider, or volunteer assumes job duties and at least annually thereafter
- Educate the individual and their legally authorized representative about protecting the individual from ANE



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New Requirements

If a report made to DFPS alleges abuse, neglect, or exploitation, by a service provider, staff member, volunteer, or controlling person the program provider must:

- Avoid compromising the investigation or further traumatizing the individual as described in §9.175(d)(3) or §9.585(d)(3)
- Preserve and protect evidence
- Take disciplinary action against a service provider, staff member, or volunteer confirmed to have committed ANE



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New Requirements

If a report made to DFPS alleges ANE by a person who is not a service provider, staff member, volunteer, or controlling person, a program provider must:

- Discuss with the individual or LAR alternative residential settings and additional services that may help ensure the individual's safety
- Avoid compromising the investigation or further traumatizing the individual as described in §9.175(c)(3) or §9.585(c)(3)
- Preserve and protect evidence



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New Requirements - LIDDA

For investigations of ANE for individuals receiving services through the CDS option:

- The rights protection officer who receives a copy of an HHSC initial intake report or a final investigative report from an FMSEA gives a copy of the report to the individual's service coordinator
- The service coordinator performs the functions related to those reports as described in 40 TAC chapter 41, subchapter G, allegations of abuse, neglect, and exploitation



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Other Changes

Critical Incident Reporting

- A program provider must enter critical incident data in the HHSC data system no later than the last calendar day of the month that follows the month being reported in accordance with the HCS Provider User Guide or the TxHmL Provider User Guide.

Provider Qualifications

- A service provider of behavioral support who is a behavior analyst must be licensed in accordance with Texas Occupations Code, Chapter 506



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Other Changes (TxHmL only)

- Deleted rules regarding Social Work
- Added requirement that a service coordinator must:
 - Provide an applicant or individual, LAR, or family member with a written copy of the booklet titled *your rights in the Texas Home Living (TxHmL) program*
 - Document the provision of the booklet and oral explanation
 - Ensure that the documentation is signed by the individual or LAR and the service coordinator



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Chapter 49

Adopted rules in 40 TAC Chapter 49, Contracting for Community Services, provide that §49.310, Abuse, Neglect, and Exploitation Allegations, does not apply to a contractor who has a contract for the HCS Program or the TxHmL Program because the adopted HCS Program and TxHmL Program rules make the application of §49.310 unnecessary for these programs



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Training

- Program Providers have the option to use HHSC's ANE training to meet the training requirements in rule.
- Information regarding HHSC ANE training is located in:
 - [Appendix XII](#) of the HCS Handbook
 - [Appendix IX](#) of the TxHmL Handbook



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Where to Find the Rules

Effective October 1, 2019

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=9](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=9)



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Questions

**Additional Questions can be emailed
to hcspolicy@hhsc.state.tx.us or
txhmlpolicy@hhsc.state.tx.us**



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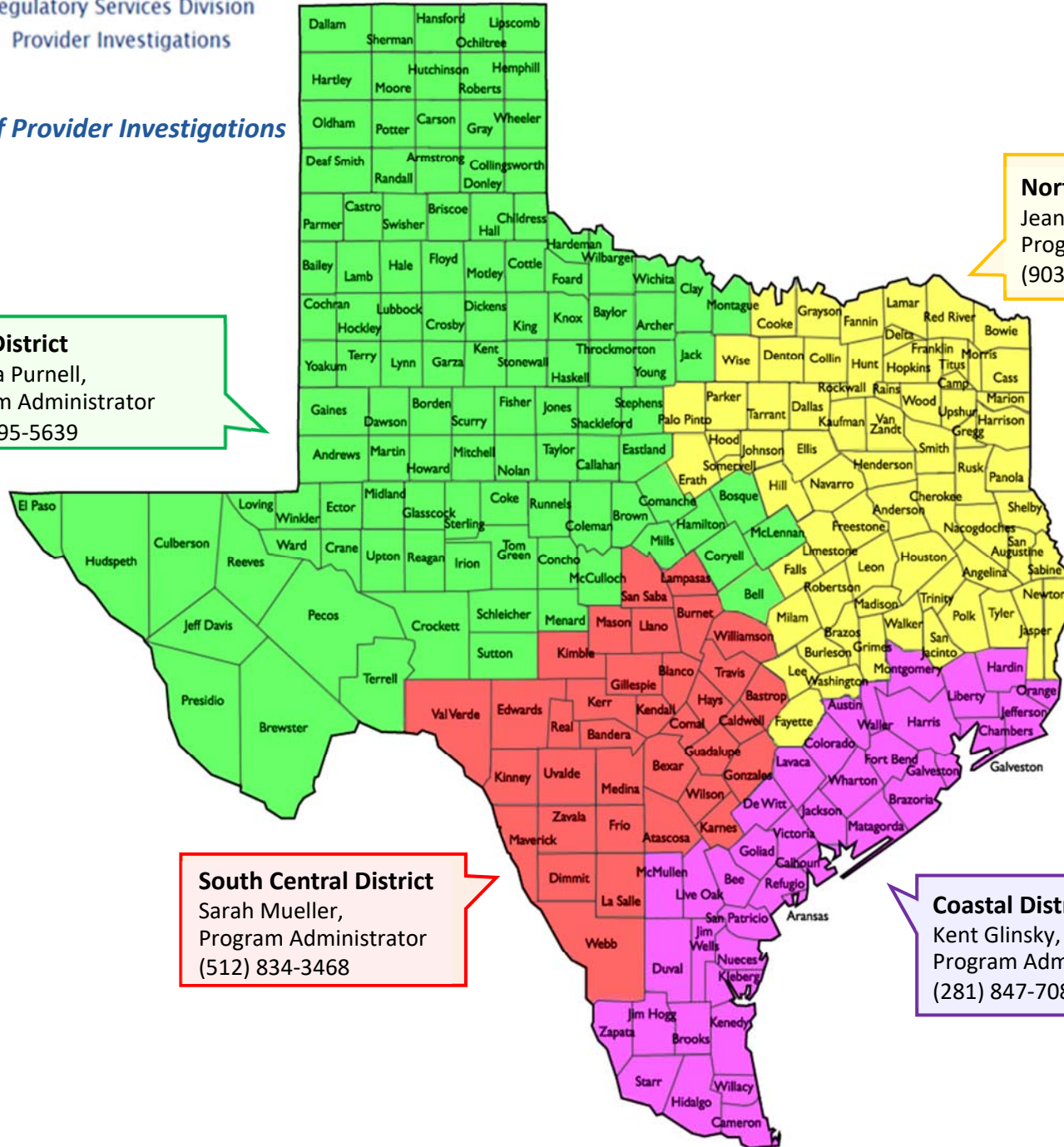
Thank you



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Legend

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- Northeast
- Coastal
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