



COMMISSIONER
Chris Traylor

April 15, 2011

To: Community Based Alternatives Providers
Community Living Assistance and Support Services Providers
Consolidated Waiver Program Providers
Consumer Directed Services Agencies
Day Activity and Health Services Providers
Deaf Blind with Multiple Disabilities Program Providers
Medically Dependent Children Program Providers
Medicaid Hospice Providers
Primary Home Care Program¹ Providers

Subject: Information Letter No. 11-31
Complaints Regarding Solicitation
(Replaces Information Letter No. 1999-08, Solicitation of Clients, and Information Letter No. 2007-98, Solicitation Practices)

The purpose of this information letter is to clarify policies of the Department of Aging and Disability Services (DADS) related to complaints alleging that providers have violated DADS rules prohibiting solicitation.

Please be advised that Texas Occupations Code, Chapter 102, "Solicitation of Patients," prohibits certain actions regarding the solicitation of persons to receive services from an entity licensed, certified, or registered by a state health care regulatory agency. As an entity that is licensed, certified, or registered by DADS, the provisions of this chapter apply to you.

In accordance with §102.109 and §102.110, an alleged violation of the chapter is prosecuted by the Texas Attorney General or the appropriate county or district attorney. Furthermore, Texas Government Code §531.102, "Office of Inspector General," gives authority to the Texas Health and Human Services Commission (HHSC), Office of Inspector General (OIG), to investigate fraud and abuse and enforce state law regarding health and human services programs, including violations of Chapter 102. DADS may impose sanctions, including contract termination, if an entity licensed, certified, or registered by DADS is found to have violated Chapter 102. Additionally, OIG may impose penalties for solicitation pursuant to 1 TAC §§ 371.1721(b)-371.1723.

Reporting Alleged Solicitation Violations

If you have reason to believe that Chapter 102 has been violated, please report the alleged violation to HHSC at the following address:

¹The Primary Home Care Program consists of Primary Home Care, Community Attendant Services, and Family Care.

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Texas Health and Human Services Commission
Office of Inspector General
Chief Counsel's Office
P.O. Box 85200
MC I-1350
Austin, TX 78708

You may also report an allegation to HHSC by telephone, toll-free, at 800-436-6184 or on-line at https://oig.hhsc.state.tx.us/Fraud_Report_Home.aspx.

DADS is currently reviewing rules contained in [Title 40, Chapter 49 of the Texas Administrative Code \(TAC\)](#) that describe contracting requirements for some community services providers. In particular, [40 TAC §49.19, Advertising and Solicitation of Clients](#), prohibits certain activities related to a provider's soliciting prospective clients and advertising its services. Because the authority to enforce Chapter 102 lies with the OIG, the appropriate county or district attorney, and the Attorney General's Office, DADS is initiating the repeal of 40 TAC §49.19 and related rule provisions.

If you have questions or need more information about the Texas Occupations Code, Chapter 102, please consult with your legal counsel.

If you have any questions regarding this information letter, please contact the Community Services Policy line at (512) 438-3015.

Sincerely,

[signature on file]

Teresa Richard
Director
Center for Policy and Innovation

TR:cp