

MEMORANDUM

Department of Aging and Disability Services (DADS)
Regulatory Services Policy * Survey and Certification Clarification (S&CC)

TO: Regulatory Services
Regional Directors, Regional Program Managers and State Office Managers

FROM: Veronda L. Durden
Assistant Commissioner
Regulatory Services

SUBJECT: **S&CC 10-03** – Home and Community Support Services Agency Compliance with Texas Human Resources Code Chapter 102, Rights of the Elderly

APPLIES TO: Home and Community Support Services Agencies

DATE: August 31, 2010

Purpose:

The purpose of this memorandum is to provide guidance regarding compliance with the provisions of Texas Human Resources Code (HRC) Chapter 102 (relating to the Rights of the Elderly).

Guidance:

Texas Administrative Code (TAC) Title 40, Part 1, Chapter 97, §97.282(c) (relating to Client Conduct and Responsibility and Client Rights) states: “An agency must comply with the provisions of the Texas Human Resources Code, Chapter 102, Rights of the Elderly, which applies to a client 60 years of age or older.” The Texas statute at HRC Chapter 102 Section 102.004(a) requires posting of the written list of rights, including each statutory provision of Section 102.003, in a conspicuous location.

During a survey or investigation of a HCSSA that provides or may provide services to an individual age 60 or older, DADS surveyors will ensure HCSSA compliance with the posting of the list of rights of the elderly and the requirement to provide each elderly individual with a written list of the individual's rights and responsibilities.

Examples of acceptable conspicuous locations include an agency's main office, a lobby of an inpatient hospice alternate delivery site, or a wall of an elderly client's residence. An agency posting the list of rights in a conspicuous location in the client's home must obtain permission from the client prior to taking action. Agencies must not coerce clients into posting the list of rights in their homes.

Consequence:

The consequence of HCSSA noncompliance with the provisions of HRC Chapter 102 is described in 40 TAC §97.602(e)(4) (relating to Administrative Penalties), which states that DADS may assess an administrative penalty without providing an agency with an opportunity to correct a violation if DADS determines that the violation involves the provisions of Texas HRC, Chapter 102, Rights of the Elderly.