

***LICENSED HOME CARE SERVICES AGENCIES***

***RE-LICENSURE SURVEILLANCE PROCESS***

***DRAFT***

***MARCH 2015***

**Licensed Home Care Services Agencies  
Re-Licensure Surveillance Process  
March 2015**

**Purpose**

Licensed Home Care Services Agencies (LHCSA) are required to meet the definition of a home care services agency as well as comply with New York State regulations to ensure the maintenance of a consistently high level of services by all home care services agencies as set forth in Article 36 of the Public Health Law.

The LHCSA surveillance process provides a method to evaluate LHCSA compliance with New York State regulations, ensuring that the provision of patient services meets minimum health and safety standards and a consistent level of quality. The LHCSA survey process incorporates an approach that is patient-focused, making it more effective and efficient in assessing, monitoring, and evaluating the quality of care delivered by the agency. Through the survey process, the surveillance team must determine if the agency has the ability to deliver needed patient services and, most importantly, if the delivery of those services impacts the quality of care and results in positive patient outcomes.

The purpose of the LHCSA surveillance process is to direct the surveyor's attention to avenues of investigation in preparation for the survey, conducting the survey, and evaluating survey findings.

**Re-licensure Survey Definition**

A re-licensure survey is an unannounced survey conducted at the discretion of the Department, but at least once every three years. The re-licensure survey includes a review of all programs/services provided by the agency (including investigation of any open complaints) and the systems in place to support those services. The survey is intended to assure the delivery of quality home health services and determine compliance with applicable rules and regulations.

**Summary of Survey Tasks**

1. Pre-survey preparation
2. Entrance conference
3. Information gathering on-site
4. Information analysis/decision making
5. Exit conference
6. Formation of the Statement of Deficiencies

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**Task 1: Pre-Survey preparation**

**Purpose**

The purpose of pre-survey preparation is to gather information about the agency which will assist in organizing and planning the survey so that it is as focused, efficient and effective as possible. Detailed pre-survey preparation can assist in identifying the patient population, services and programs approved, any unique agency characteristics, and potential issues/problem areas to target on survey. As a guide, a **LHCSA Pre-Survey Worksheet** is available to assist in completing this task.

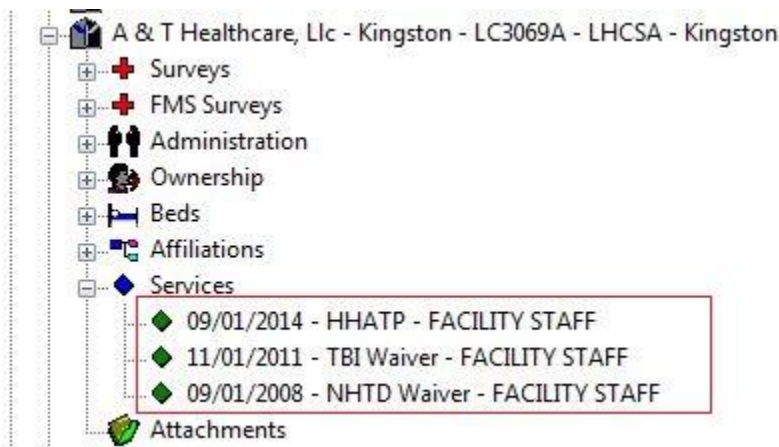
**Agency File**

In preparation for the survey, collect and review all information contained in the agency file. Review documents of record including licensure information, approvals for locations/services, any correspondence, and any agency changes. Include media reports (if known) about the agency and other publicly available information (e.g., agency web site).

**ASPEN (ACO/ACTS)**

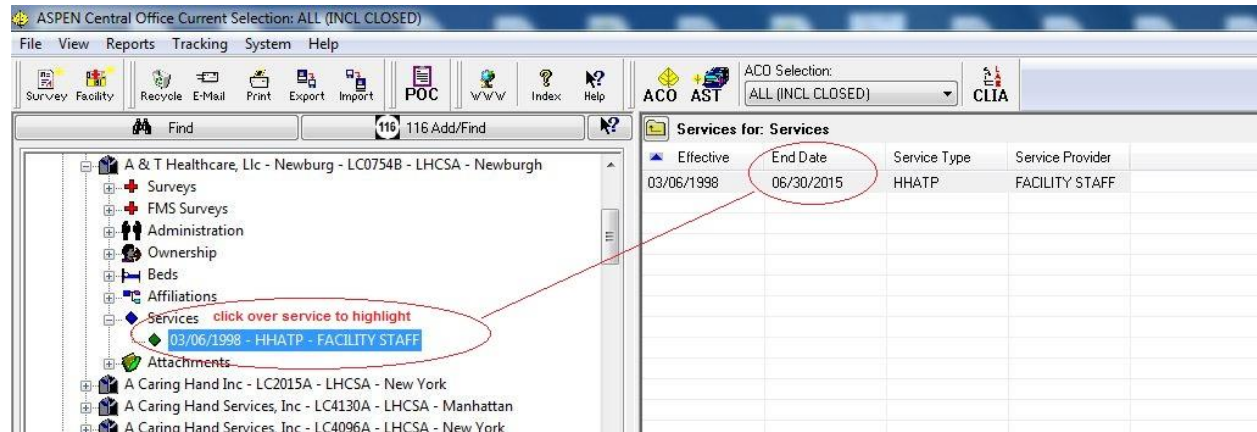
Use Aspen (ACO/ACTS) for a review of previous survey data, including previous Statement of Deficiencies (SOD). Determine what type of surveys were completed, whether a SOD was issued and if the Plan of Correction (POC) was submitted and found acceptable. If a POC is present, identify what the agency was supposed to do to fix the deficiencies and how the agency planned to monitor effectiveness of corrective activities. This information can provide focus areas for the survey.

Determine what services are authorized and what programs are provided by the agency. Plan to include a review of all services and programs provided by the agency, including Home Health Aide Training Programs (HHATP), if offered, as well as Medicaid waiver programs:



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Use mouse to click over each service and highlight. The right side of the screen will display effective and end dates:



Review existing guidance for surveillance of these programs, e.g. HHATP Surveillance Process, Nursing Home Transition and Diversion (NHTD) and Traumatic Brain Injury (TBI) Surveillance Policies and Procedures. This information is available on ASPENWeb: <http://aspensweb.health.state.ny.us/>.

Review all complaints since last survey, including the allegations and findings. Look for possible trends in the nature of complaints in order to determine if there are common themes that would suggest areas for focused attention. Any open complaints should be addressed and investigated during the survey.

### **Criminal History Record Check**

Obtain and review “Criminal History Record Check (CHRC) Negative Determination Letters Monthly Report” from the Regional Office Program Manager. Initiate **Criminal History Record Check Compliance Worksheet**. (See **Criminal History Record Check Home Care Surveyor Protocol**.)

### **Health Commerce System**

Use information available on the Health Commerce System (HCS) to review the Home Care Registry. Print the agency profile (this will include a list of all active and inactive aides).

Use the Role Look-Up Tool on HCS to allow verification that roles have been assigned and that information is current. Initiate **Health Commerce Surveyor Worksheet**.

### **Summary**

The information obtained during this pre-survey preparation should indicate:

- Which issues will need to be addressed on the survey;
- Which regulation sets/Department policies will be used;
- What information will need to be verified during the entrance conference;
- What patient/personnel records and home visits should be reviewed/conducted;

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- Approximately how long the survey will take to complete; and
- How many staff will be needed.

**Task 2: Entrance Conference**

The entrance conference, which sets the tone for the entire survey, is the critical first stage of the onsite survey process. The surveyor must establish rapport with the LHCSA staff and establish his or her authority as the leader of the survey and begin to gather information. Be aware that the unannounced survey may be disruptive to the normal daily activities of the agency.

- Upon arrival at the agency, the surveyor(s) will introduce themselves and present identification.
- The survey team leader will inform the agency administrator, director, or supervisor of the purpose of the survey (e.g., compliance with state regulations, determine quality of care and services furnished), explain the survey process and discuss the extent to which the agency staff may be involved during the survey.
- The **Entrance Conference Worksheet** is utilized, as a guide, for completing entrance conference tasks.

The survey team leader will observe office space to ensure that it is adequate, request a place to work and begin to ask pertinent open-ended questions during the entrance conference to verify information obtained during the pre-survey activities.

- The information learned from the agency's verbal explanation of organizational structure, services furnished, programs, contracts and any changes since the last survey may help determine the case review sample.
- Identification of key personnel, an agency point of contact, and a clinical staff person who will be the primary resource to respond to surveyor's questions must be established; an agency organizational chart must be obtained.
- The surveyor will identify the clinical record documentation system (request staff walk-through the clinical record layout) and verify the process to follow in order to have access to clinical records.
- Address any issues identified from pre-survey preparation and investigate any discrepancies in information obtained during the entrance conference through review of documents and interviews with staff.

Planning for the next steps in the survey process, the surveyor will provide the agency with **Documents/Information Required for Survey** and inform agency staff of a reasonable timeframe for providing the necessary documents needed for the survey.

In preparation for the information gathering task, the team will request the patient roster. The purpose of having the patient roster is to obtain access to active patient names currently receiving services and discharged from services, patients scheduled for home visit during the survey time period (including services/disciplines involved), and the number of unduplicated patients admitted during the last 12-

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month period. This will help facilitate the case and home visit sample. Also request the personnel roster to determine sample for personnel record reviews.

**Task 3: Information Gathering Onsite**

The information gathering task is an organized, systematic, and consistent process designed to enable surveyors to make decisions concerning the LHCSA's compliance with Department policies and state regulations. Surveyors gather critical information by focusing on home visits, observations, interviews, document review, and clinical and personnel record reviews. The onsite activities include a review of the operational aspects of care delivery. Activities during this phase include the following:

- Interview with administrative and agency personnel;
- Resolution of issues related to the pre-survey materials; and
- Observation of office space to ensure that it is adequate to provide for maintenance of confidential files.

**Document Review**

Review the following information:

- Agency patient admission packet including patient bill of rights;
- Quality Improvement Committee meeting minutes for the past 24 months (see **LHCSA QA Surveillance Tool**);
- Agency policy regarding clinical supervision;
- All pertinent agency policy and procedures that have been added or revised since the last survey, including but not limited to: CHRC, Home Care Registry, palliative care, influenza vaccination/flu-mask regulations (See **Influenza Vaccination/Flu Mask Requirement Surveyor Worksheet**);
- Agency complaint/grievance log and complaints (if indicated);
- Agency Emergency Preparedness Plan (See **Emergency Preparedness Tool**);
- Active patient roster including services provided; and
- Discharged patient roster (within the last 12 months).

**Clinical Record Review**

Review a sample of patient care records (active and discharged) using the **LHCSA Clinical Record Review Form**.

- Using the agency's active roster of patients, select a five percent (5%) random sample of current patient census (a minimum of six records must be reviewed and no more than 15 records);
- Review active patients;
- Review at least one discharged patient;
- If the patient census is below six, review all active records and substitute additional discharged records so a minimum of six records are reviewed;
- The priority of record selection should be in the following order:
  1. private pay;

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- 2. patients case managed by the LHCSA; and
- 3. vendor patients (services provided by contracts)
- If possible, include records which represent the different services the agency is authorized to provide.

### **Personnel Record Review**

Review the agency's active personnel list including name, date of hire, title and function (job description) to select sample and document the reviews on the **Personnel Record Review Form**.

- Select a sample of five percent (5%) of personnel from the list of active personnel.
- If possible, select personnel associated with the patients whose records are reviewed.
- A minimum of one personnel record from each of the services the agency provides and are from administration.
- If the review of the minimal sample identifies concerns or deficiencies, an additional sample should be reviewed that include, when applicable:
  - Recently hired staff;
  - Staff employed more than one year;
  - Personnel providing service via contract; and
  - Staff recently reassigned or terminated.

### **Home Visits**

During the home visit\*, surveyors are in a key position to assess the agency's compliance with regulations related to patient rights, accepted professional standards of practice, supervision of care, assessment of patients, plan of care, care provided, and maintenance of clinical records.

- A minimum of three home visits must be conducted and will need to be scheduled with agency staff using the patient visit schedule provided by the agency. Additional home visits may be conducted based on survey findings.
  - If possible, select a sample from those patients whose clinical records, patient care plans, pertinent policies and procedures and other relevant documents have been reviewed. This will assist the surveyor in making appropriate observations and asking pertinent questions during the visit.
  - Select home visits to observe various services, such as aide, nursing, etc.
  - If possible, arrange for home visits with patients/family who can participate in the interview process.
- Home visits are strictly voluntary and conducted only when patients have given prior consent for the visit. It is important to contact the patient before arrival, if possible, because the first onsite contact may be intimidating to the patient or may generate some fear.
- In most cases, the agency staff member who provides care should contact the patient/family/caretaker to request permission and make arrangements for the home visit. However the surveyor may choose to contact the patient/family/caretaker directly if the agency

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seems non cooperative in arranging the visit and/or a situation involving a sensitive complaint investigation or other matter, etc.

- Request that the patient sign the **Consent for Home Visit Form**. If the patient refuses to sign the consent form but is willing to be interviewed, make a notation on the consent form and proceed with the visit.
- At the patient's home, explain the purpose of the visit. It is part of a routine review of the agency providing home care, to ensure that the agency is providing the quality of care required by state regulations.
- Observe the care being provided and interview the patient/family in order to evaluate adequacy of care provided and patient satisfaction.
- The surveyor must be continuously aware that, as a guest in a patient's home, courtesy, common sense and sensitivity to the importance of an individual's own environment is absolutely essential.
- The surveyor should observe, but not interfere with, the delivery of care or the interaction between the agency's staff and the individual patient/family/ caretaker.
- As part of the home visit process, the surveyor should:
  - Ascertain whether services and care are rendered according to the plan of care and whether the plan of care reflects the patient's current status, and, if applicable, was modified as the condition of the patient changed;
  - Determine whether the number and frequency of supervisory visits reflects agency policy;
  - Determine whether supervisory visits are made to orient the aide to the plan of care, to provide required on-the-job training and to evaluate aide competency in the tasks performed;
  - Ascertain that the patient knows how to contact the agency; and
  - Ascertain the patient's satisfaction with the service/care provided.

*\*In the rare circumstance when conducting a home visit is not feasible, a telephone interview may be conducted as a substitute.*

**Task 4: Information Analysis/Decision Making**

The information analysis process is an organized, systematic and consistent process designed to enable surveyors to make decisions concerning an agency's compliance with regulatory requirements during the survey. The primary objective of this task is to review and analyze all information collected and to determine whether or not the agency has failed to meet one or more of the regulatory requirements.

Using observation, interviews and record review as sources of information, the information gathering portion of the survey focuses on the patients and personnel, a review of all services/programs, and the delivery of services by the agency.

- The surveyor worksheets and the surveillance process are designed to assist the surveyor in gathering, investigating, organizing, and analyzing information about the quality of services



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provided by the agency in order to determine whether the agency has failed to meet any state requirements.

- The surveyor's role is to assess the quality of care and services the agency provides and relate those findings to the regulatory requirements.

Each member of the team should review his/her worksheets to identify concerns and specific evidence relating to requirements that the agency has potentially failed to meet.

- In order to identify any deficient practices and to enable collating and evaluating the evidence, worksheets should reflect the source of the evidence and should quantify and summarize the concerns.
- The **Review of Personnel Form** and the **Patient Record Review Form** are completed as documentation of the review of records during the survey process.

Information analysis and decision making builds on discussions.

- The survey team should meet informally at least daily; discussions should include observed problems, areas of concern, and possible failure to meet requirements.
- In order to ensure that no requirements are missed, proceed through the requirements section by section.
- Findings/evidence within each section should be shared by each team member during this discussion.
- Consider all aspects of the requirements being discussed and evaluate how the information gathered relates to the specifics of the regulatory language and to the agency's performance in each requirement.

An evaluation of whether a finding constitutes a deficiency should not be made until all necessary information has been collected. When analyzing information and making determinations about the importance of the findings, analyze findings relative to each requirement for:

- The effect or potential effect on the patient care;
- The scope and degree of severity;
- The frequency of occurrence; and
- The impact on the delivery of services.

Review findings from document reviews, policy and procedure reviews, clinical and personnel record reviews and home visits.

- In making the determination on deficiencies to cite, the surveyor may consider the number, nature and combination of findings, the presences of a pattern of patient care problems, the presence of

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potential hazard to patient's health and safety, the severity of the survey findings and the resultant impact on patient care.

- Additional activities and investigation through policy and record review, home visit observations and interviews should substantiate and support any findings of noncompliance.

At the conclusion, the surveyors should share their findings, evaluate the evidence, and make team decisions regarding compliance with each requirement.

- Decisions about deficiencies are to be team decisions with each member of the team having input into the decisions.
- The team should come to consensus on each requirement for which problems have been raised by any member.
- If no problems are identified for a particular requirement then no deficiency exists for that requirement.
- The team must have evidence that supports each finding of noncompliance. Any additional evidence needed to support identified noncompliance must be gathered prior to exiting the agency.
- The team leader, or a designee, collates all information and records the substance of the decision-making discussion.
- It is extremely important to fully document cases that indicate a potential for enforcement action to substantiate the proposed action in the event of a hearing or court review.

All noted noncompliance must be cited as a deficiency, even when corrected onsite during the survey.

- When a noncompliant practice is determined to have taken place prior to the survey, this would be considered evidence of current noncompliance, **unless** there is documentation that the agency identified the problem prior to the survey and implemented **effective** corrective action.
- If the deficient practice is identified and corrected by the agency prior to the survey and there is no other evidence of current noncompliance, do not cite deficiencies.

The team's or surveyor's preliminary decision-making and analysis of findings assist in preparing for the exit conference.

#### **Task 5: Exit Conference**

The exit conference is held at the conclusion of the onsite survey. The purpose of the exit conference is to inform the agency of observations and preliminary survey findings in order to facilitate the agency's understanding of possible deficiencies. Because of ongoing dialogue between the surveyor(s) and agency staff during the survey, the agency is typically aware of the preliminary survey findings prior to the exit conference.

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The survey team will conduct the exit conference with the agency administrator, clinical supervisors, and other staff invited by the agency. The surveyor will clarify and note the names and positions of all agency personnel or other individuals attending the meeting and have them sign the **Exit Conference Sign-in Sheet**.

The team leader or surveyor facilitates the meeting and is responsible for organizing the exit conference, including who (among state staff) will have a speaking role. The agency's request to record the exit conference must be requested prior to the exit conference and is at the discretion of the survey team. Two copies of the recording must be made and the surveyor will select one of the tapes at the conclusion of the conference and take it back to the Regional Office.

If the team feels it may encounter a problem during the exit conference, the team leader should contact the Regional Office Program Manager in advance to discuss the potential problems and appropriate strategies to handle them.

Introductory Remarks:

- Thank everyone for their cooperation during the survey;
- Reintroduce the surveyors who participated in the survey if they are present at the exit conference;
- Briefly reiterate the reason for the survey; and
- Explain how the team will conduct the exit conference and any ground rules.

The exit conference agenda:

- Summarize the facts of the onsite survey (e.g., team size, composition, number of days onsite, the sample size for record reviews and home visits).
- Present preliminary survey findings.
- Describe the regulatory requirements that the agency does not meet and the findings that substantiate these deficiencies. Offer examples to support the findings, as appropriate. (It is not the surveyor's role to provide consultation on how to fix the deficiencies.)
- Offer the agency an opportunity to ask questions regarding the findings or procedural questions.
- At the discretion of the surveyor, provide an opportunity for the agency to provide additional information which may be considered offsite in determining compliance/noncompliance.
- Clarify that all findings presented are preliminary and that final determinations of compliance/noncompliance will be made offsite after all information is analyzed.
- Describe the procedure for issuance of the SOD report and instructions and time frame for the agency to submit a POC. The POC must be submitted to the Regional Office within 10 calendar days after receipt of the SOD.

**Task 6: Formation of the Statement of Deficiencies**

The Statement of Deficiencies (SOD) must follow the Principles of Documentation and be written in terms specific enough to allow a reasonably knowledgeable person to understand how the aspects of each regulation are not met.

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The purpose of the SOD, documented on the Statement of Deficiencies (2567 form), is to provide the agency with a written report of areas of agency functioning that are below minimum standards as established by state regulations.

The SOD should clearly state the type of survey conducted (re-licensure), all programs reviewed (HHATP, Medicaid waiver), the number of clinical and personnel records reviewed, the number of home visits conducted and the specific documents reviewed. Refer to example below:

*This Statement of Deficiencies report is the result of an Article 36 re-licensure survey of the Licensed Home Care Service Agency conducted on XX/XX/XX – XX/XX/XX. The survey consisted of a review of # patient records (including discharge records), # patient home visits, # personnel records, quality improvement meeting minutes for the past 12 months, contracts, complaint log, agency's policies and procedures, Home Care Registry and interview with the [Administrator and Vice President]. Findings were reviewed at the exit conference.*

*The following deficiencies are being cited as a result of the survey:*

The deficiencies are documented on the left side of the SOD, and are grouped and titled according to the corresponding sections of 10 NYCRR. Following each deficiency, the specific reference for the state regulation is recorded (i.e., 10 NYCRR 766.1(a)).

Each deficiency is a statement of a specific agency characteristic that does not meet a state regulation. Each deficiency is written to accurately and clearly identify the problem and:

- is specific and draws a clear picture of what was observed;
- reflects a pattern of care from a representative sample;
- is concise, objective and quantifiable; and
- answers the questions who, what, where, when, and how, when applicable.

An example of a correctly written deficiency is:

*“Two out of six clinical records (#x and #x ) reviewed lack signed and dated progress notes by the physical therapist for biweekly visits conducted during the month of September 2014. (10 NYCRR 766.6 (a) (5)).”*

The SOD report must support conclusions in the event of a hearing or court review. Since the SOD is available to the public under the Freedom of Information Law, the following are not included:

- Patient names (I.D. numbers for patients and position titles for staff members are used in lieu of patient or staff names);
- The identity of any informant who has given adverse information or has complaints about an agency;
- Information which could be considered defamatory toward any identifiable person; and
- The address of a specific person (address of the agency is acceptable).

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If no deficiencies are identified and the agency is found to be in compliance with the applicable regulations, an SOD is issued stating type of survey conducted (e.g. re-licensure) and the survey activities performed. For example:

*A re-licensure survey of the Licensed Home Care Service Agency was conducted on XX/XX/XX – XX/XX/XX to evaluate the agency's compliance with state regulations. The survey included a review of the agency's Quality Assurance activities, complaint log, Emergency Plan, pertinent policies and procedures, contracts, Home Care Registry, # clinical records and # personnel records reviewed and # home visits conducted. The agency's Administrator was interviewed. Findings were reviewed with the Administrator at the exit conference.*

*The agency was determined to be in substantial compliance with applicable regulatory requirements; no deficiencies are being cited.*

The following are examples of initial comments statements which include other services or programs reviewed during the re-licensure survey:

*LHCSA with Home Health Aide Training Program*

*A re-licensure survey of the Licensed Home Care Service Agency including review of the Home Health Aide Training Program (HHATP) was conducted on XX/XX/XX – XX/XX/XX to evaluate the agency's compliance with State regulations. The survey included a review of the agency's quality assurance and governing authority minutes, pertinent agency policies and procedures, Home Care Registry, Emergency Plan, complaint log, 6 clinical records, 8 personnel records, HHATP quality assurance activities, and 3 home visits were conducted.*

*The Administrator and HHATP Nurse Training Coordinator were interviewed. Findings were reviewed at the exit conference with the Administrator.*

*The following deficiencies are being cited as a result of the survey:*

*LHCSA with Complaint*

*A re-licensure survey of the Licensed Home Care Services Agency was conducted on XX/XX/XX - XX/XX/XX including investigation of complaint # NY000XXXXX, to evaluate the agency's compliance with State regulations. The survey included a review of the agency's quality assurance and governing authority minutes, pertinent agency policies and procedures, Emergency Plan, complaint log, # of clinical records, # of personnel records reviewed, and # of home visits.*

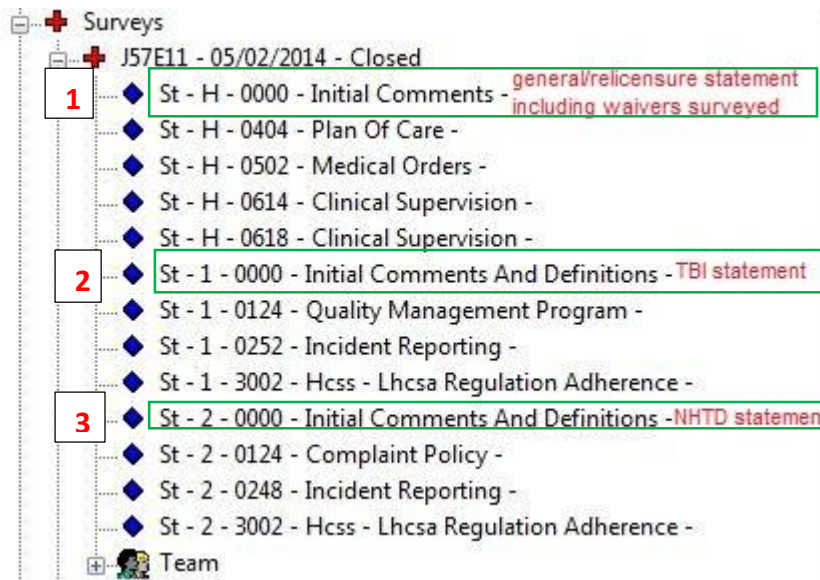
*The agency's Administrator and Director of Patient Services (DPS) were interviewed. Findings were reviewed with the Administrator and DPS at the exit conference.*

*The following deficiencies are being cited as a result of the survey:*

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**LHCSAs with Medicaid Waiver Programs:**

Surveys involving review of one or more Medicaid waiver programs are completed during one onsite visit and will require more than one Initial Comments statements. For example:



1. General/Re-Licensure statement

*A re-licensure survey of the Licensed Home Care Service Agency including review of the agency's Traumatic Brain Injury (TBI) Medicaid Waiver Program and Nursing Home Transition Diversion Waiver Program was conducted on XX/XX/XX – XX/XX/XX to evaluate the agency's compliance with State regulations. The survey included a review of [the agency's Quality Assurance activities, complaint log, pertinent policies and procedures, contracts, Home Care Registry, # patient records (including one discharge record) and # personnel records], # home visits were conducted. The agency's [Administrator and Director of Patient Services (DPS)] were interviewed. Findings were reviewed with the [Administrator and DPS] at the exit conference.*

*The following deficiencies are being cited as a result of the survey:*

2. TBI Statement

*A survey of the Traumatic Brain Injury Waiver (TBI) Program was conducted on XX/XX/XX – XX/XX/XX to evaluate the provider's compliance with standards set forth in the TBI Program Manual. The survey took place at [location] and consisted of a review of the provider's quality management program, complaint procedures, incident reporting policies and procedures, agency training curriculum, X participant records which included X observational home visits and one face to face interview, X employee files and interviews with the [Corporate Executive Officer, Director of Waiver Services, Structured Day Program Director, Director of Chemical Dependency Services and Quality Assurance, Director of Corporate Human Resources and Corporate Compliance Officer,*

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*Director of Patient/Home Care Services] and staff. Deficiencies in the TBI Program were identified and referenced in the report below.*

3. NHTD Statement

*A survey of the Nursing Home Transition and Diversion Waiver (NHTD) Program was conducted on XX/XX/XX – XX/XX/XX to evaluate the provider's compliance with standards set forth in the NHTD Program Manual. The survey took place at [location] and consisted of a review of the provider's quality management program, complaint procedures, incident reporting policies and procedures, agency training curriculum, X participant records which included X observational home visits and X face to face interview, X employee files and interviews with [the Corporate Executive Officer, Director of Waiver Services, Structured Day Program Director, Director of Chemical Dependency Services and Quality Assurance, Director of Corporate Human Resources and Corporate Compliance Officer, Director of Patient/Home Care Services] and staff. Deficiencies in the NHTD Program were identified and referenced in the report below.*

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**LHCSA Surveillance Tools:**

1. LHCSA Pre-Survey Worksheet
2. Health Commerce System Surveyor Worksheet
3. Criminal History Record Check Home Care Surveyor Protocol and Worksheet
4. Entrance Conference Worksheet LHCSA
5. Documents/Information Required for Survey
6. Contracts Tool
7. LHCSA QA Surveillance Tool
8. Influenza Vaccination/Flu Mask Requirement Surveyor Worksheet
9. Emergency Preparedness Tool
10. LHCSA Clinical Record Review Form
11. Employee List for Personnel Record Review
12. Personnel Record Review Form
13. Consent for Home Visit
14. Exit Sign in Sheet