



Health Facility Licensing Guidance Letter

Number: GL 20-1011-A-3
Title: Emergency Hospital Off-Site Facilities in Response to COVID-19 [Amended]
Provider Types: General and Special Hospitals
Date Issued: January 29, 2021

1.0 Subject and Purpose

This amended guidance letter replaces the previous GL 20-1011-A-2, issued on January 19, 2021, to notify providers that on January 29, 2021, the Health and Human Services Commission (HHSC) extended emergency rule §500.2, Waiver of 36-Month Requirement During the COVID-19 Pandemic, in Texas Administrative Code Title 26, Part 1, Chapter 500, for an additional 60 days. The emergency rule extension is effective until March 29, 2021 and can be viewed in the Texas Register under docket number **202004056**.

The Health and Human Services Commission (HHSC) adopted emergency rules in response to the state of disaster declared in Texas and the United States of America relating to COVID-19. Under the new emergency rules, currently licensed hospitals are permitted to temporarily operate off-site inpatient facilities without obtaining a new license to more effectively treat and house patients in response to the COVID-19 pandemic.

This letter describes the emergency rules and off-site application process.

2.0 Emergency Rule Details

Emergency rule §500.1, Hospital Off-Site Facilities in Response to COVID-19, was adopted under Texas Administrative Code Title 26, Part 1, Chapter 500 on September 21, 2020. Under this emergency rule, general and special hospitals may apply to HHSC for approval to provide inpatient care at an off-site facility under the hospital's existing license. Hospitals must follow the operational requirements when providing services under this emergency rule.

Emergency rule §500.2, Waiver of 36-Month Requirement During the COVID-19 Pandemic, was adopted under Texas Administrative Code Title 26, Part 1, Chapter 500 on October 1, 2020. Under this emergency rule, HHSC has the discretion to waive the requirement that an off-site facility must be open or have been licensed within the past 36 months.

2.1 Emergency Rule §500.1 Hospital Off-Site Facilities in Response to COVID-19.

Under emergency rule §500.1, a hospital licensed under Health and Safety Code Chapter 241 may apply to HHSC for approval to provide inpatient care at an off-site facility under the hospital's existing license. These off-site facilities must be:

- (1) An inpatient hospice unit licensed under Health and Safety Code Chapter 142 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;
- (2) A hospital no longer licensed under Health and Safety Code Chapter 241 that closed within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;
- (3) A hospital exempt from licensure under Health and Safety Code Chapter 241;
- (4) A mobile, transportable, or relocatable unit, as defined in Title 25 Texas Administrative Code (TAC) §133.166 (relating to Mobile, Transportable, and Relocatable Units), that otherwise complies with that section;
- (5) A nursing facility or other institution licensed under Health and Safety Code Chapter 242 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;
- (6) An ambulatory surgical center licensed under Health and Safety Code Chapter 243 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;
- (7) An assisted living facility licensed under Health and Safety Code Chapter 247 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;

(8) A freestanding emergency medical care facility licensed under Health and Safety Code Chapter 254 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;

(9) A mental hospital licensed under Health and Safety Code Chapter 577 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection; or

(10) An outpatient facility operated by the hospital, either currently or within the past 36 months.

2.2 Emergency Rule §500.2 Waiver of 36-Month Requirement During the COVID-19 Pandemic

Under this emergency rule, at its sole discretion, HHSC may waive the requirement under §500.1 that an off-site facility must have been licensed or open within the past 36 months, if the hospital applying to use the off-site facility provides satisfactory evidence that such a waiver will not detrimentally affect the health or safety of patients, hospital staff, or the public.

2.3 Application Requirements.

Hospitals must submit [Form 3220, COVID-19 Response Off-Site Facility Application](#), to infohflc@hhs.texas.gov and receive written approval from HHSC prior to using an off-site facility for inpatient care. HHSC may approve an application at its sole discretion and may require an inspection or additional documentation prior to approval. HHSC may withdraw its approval to use a facility at any time.

3.0 Background/History

In accordance with Texas Government Code §2001.034, HHSC adopted new emergency rule §500.1, relating to Hospital Off-site Facilities in Response to COVID-19, in 26 TAC, Part 1, Chapter 500 on September 21, 2020, and §500.2, relating to Waiver of 36-Month Requirement During the COVID-19 Pandemic, in 26 TAC, Part 1, Chapter 500 on October 1, 2020 due to imminent peril to the public health, safety, or welfare. The emergency rules may not be effective for longer than 120 days and may not be renewed for longer than 60 days.

3.1 History of Emergency Rule §500.1 Hospital Off-Site Facilities in Response to COVID-19

HHSC originally adopted an emergency rule for hospital off-site facilities on March 25, 2020, which was extended on July 22, 2020, and expired on September 20, 2020. HHSC adopted a new emergency rule at §500.1 on September 21, 2020 for hospital off-site facilities, which updated the email address for the Health Facility Compliance unit and added in new language in subsection (a).

3.2 History of Emergency Rule §500.2 Waiver of 36-Month Requirement During the COVID-19 Pandemic

HHSC adopted an additional emergency rule to waive the 36-month requirement for off-site facilities on April 4, 2020, which was extended on August 1, 2020, and expired on September 30, 2020. HHSC adopted a new emergency rule at §500.2 on October 1, 2020 to allow HHSC to waive the requirement that an off-site facility used by a hospital in response to the COVID-19 pandemic must be licensed or have been open within the past 36 months.

4.0 Resources

View emergency rule §500.1 in the Texas Register by searching Texas Register Docket Number (TRD ID): **202003866** at [https://texreg.sos.state.tx.us/public/regviewctx\\$.startup](https://texreg.sos.state.tx.us/public/regviewctx$.startup).

View emergency rule §500.2 in the Texas Register by searching Texas Register Docket Number (TRD ID): **202004056** at [https://texreg.sos.state.tx.us/public/regviewctx\\$.startup](https://texreg.sos.state.tx.us/public/regviewctx$.startup).

View Governor Abbott's Disaster Declaration at: https://gov.texas.gov/uploads/files/press/DISASTER_covid19_disaster_proclamation_IMAGE_03-13-2020.pdf.

To receive future updates, sign up for GovDelivery: <https://service.govdelivery.com/accounts/TXHHSC/subscriber/new>.

5.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules, and Training unit by email at: HCR_PRT@hhs.texas.gov.