



Health Facility Licensing Guidance Letter

Number: GL 20-1013
Title: Designation of Licensed Hospital Space During the COVID-19 Pandemic
Provider Types: General and Special Hospitals
Date Issued: October 19, 2020

1.0 Subject and Purpose

The Health and Human Services Commission (HHSC) adopted an emergency rule in response to the state of disaster declared in Texas and the United States of America relating to COVID-19. Under the new emergency rule, effective October 20, 2020, a currently licensed hospital is temporarily permitted to designate a specific part of the hospital for use as an off-site facility by another hospital, and to allow another currently licensed hospital to apply to use that designated space as an off-site facility under its license for inpatient care in response to the COVID-19 pandemic.

This letter describes the emergency rule adopted during the disaster and the application process for operating an off-site facility under these restrictions.

2.0 Emergency Rule Details

Emergency rule §500.3, Designation of Licensed Hospital Space During the COVID-19 Pandemic, is adopted under Texas Administrative Code Title 26, Part 1, Chapter 500. Under this emergency rule, a currently licensed hospital facility may use [Form 3220](#) to designate a specific part of its hospital for use as an off-site facility by another hospital, and another currently licensed hospital may use [Form 3220](#) to apply to use that designated hospital space as an off-site facility under its license for inpatient care in response to COVID-19.

2.1 Emergency Rule §500.3 Designation of Licensed Hospital Space During the COVID-19 Pandemic

The emergency rule is reproduced below:

§500.3. Designation of Licensed Hospital Space During the COVID-19 Pandemic.

(a) Based on Governor Greg Abbott's March 13, 2020 declaration of a state of disaster in all Texas counties, the Texas Health and Human Services Commission (HHSC) adopts this emergency rule to establish continuing requirements and flexibilities to protect public health and safety during the COVID-19 pandemic. The requirements and flexibilities established in this section are applicable during an active declaration of a state of disaster in all Texas counties due to the COVID-19 pandemic, declared pursuant to §418.014 of the Texas Government Code.

(b) Using a form prescribed by the Texas Health and Human Services Commission (HHSC), a hospital currently licensed under Health and Safety Code Chapter 241 may designate a specific portion of its facility for use as an off-site facility by another hospital. A portion of the facility designated under this subsection may not be used under the designating hospital's license while the designation is effective.

(c) Another hospital currently licensed under Health and Safety Code Chapter 241 may apply to use a portion of the facility designated under subsection (b) of this section as an off-site facility for inpatient care under §500.1 of this chapter (relating to Hospital Off-Site Facilities in Response to COVID-19) in the same manner as it would apply to use a facility described by §500.1(c)(2) of this chapter.

(d) A hospital that uses a portion of the facility designated under subsection (b) of this section as an off-site facility for inpatient care is responsible under its license for complying with all applicable federal and state statutes and rules, including §500.1 of this chapter, while using the portion of the facility.

(e) A hospital may withdraw its designation of the portion of the facility upon 10 days' notice to HHSC and to the hospital using the portion of the facility as an offsite facility. HHSC, at its sole discretion,

may withdraw a hospital's designation of the portion of the facility at any time. Any patients being treated in the portion of the facility shall be safely relocated or transferred as soon as practicable according to the policies and procedures of the hospital using the portion of the facility as an off-site facility.

(f) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority that is more restrictive than this section or any minimum standard relating to a hospital, the hospital must comply with the executive order or other direction.

2.2 Application Requirements.

A currently licensed hospital may use [Form 3220, COVID-19 Response Off-Site Facility Application](#), to designate a specific part of its hospital for use as an off-site facility by another hospital, and another currently licensed hospital may use [Form 3220](#) to apply to use that designated hospital space as an off-site facility under its license for inpatient care in response to COVID-19.

Hospitals must submit the form to operate an off-site facility under these restrictions 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

HHSC originally adopted a previous emergency rule at §500.3, Designation of Licensed Hospital Space in Response to COVID-19, on April 23, 2020, and extended it on August 20, 2020. The new emergency rule adds new language in subsections (a) and (f).

In accordance with Texas Government Code §2001.034, HHSC adopted new emergency rule §500.3, relating to Designation of Licensed Hospital Space in Response to COVID-19 Pandemic, in 26 TAC, Part 1, Chapter 500, Subchapter A, effective October 20, 2020, due to imminent peril to the public health, safety, or welfare. This emergency rule may not be effective for longer than 120 days and may not be renewed for longer than 60 days.

4.0 Resources

Form 3220, COVID-19 Response Off-Site Facility Application, provided at <https://hhs.texas.gov/laws-regulations/forms/3000-3999/form-3220-covid-19-response-site-facility-application>.

View emergency rule §500.3 in the Texas Register by searching Texas Register Docket Number (TRD ID): **202004329** at [https://texreg.sos.state.tx.us/public/regviewctx\\$.startup](https://texreg.sos.state.tx.us/public/regviewctx$.startup).

Governor Abbott's Disaster Declaration, provided 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.