



## Health Facility Compliance Guidance Letter

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| <b>Number:</b> GL 20-2020-A  |
| <b>Title:</b> Ambulatory Surgical Center (ASC) Services and Reporting Requirements in Response to COVID-19 [Amended] |
| <b>Provider Types:</b> Ambulatory Surgical Centers   |
| <b>Date Issued:</b> January 21, 2021   |

### 1.0 Subject and Purpose

This amended guidance letter replaces the previous GL 20-2020, issued on September 23, 2020, to notify providers that on January 21, 2021, the Health and Human Services Commission (HHSC) extended emergency rule amendments to §135.2, Definitions, and §135.26, Reporting Requirements in Texas Administrative Code Title 25, Part 1, Chapter 135, for an additional 60 days. The emergency rule extension is effective until March 21, 2021 and can be viewed in the Texas Register under docket number **202003887**.

The Health and Human Services Commission (HHSC) amended 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 rule amendments, effective September 23, 2020, currently licensed ASCs are permitted to temporarily expand their services beyond surgical services and keep patients for longer periods of time in response to the COVID-19 pandemic.

### 2.0 Emergency Rule Details

Emergency rule amendments to §135.2, Definitions, and §135.26, Reporting Requirements, are adopted under Texas Administrative Code Title 25, Part 1, Chapter 135. Under these emergency rules, currently licensed ASCs may temporarily: (1) expand their treatment options to include other health care services, not surgical services alone; (2) allow for patient stays longer than 23 hours; (3) not report longer patient stays and hospital transfers. The emergency amendments also require an ASC to report information to the

Department of State Health Services (DSHS) if that agency requires it. ASCs must follow all other operational requirements when providing services under this emergency rule.

### **2.1 Emergency Rule §135.2 Definitions.**

Under the emergency rule amendment to §135.2, Definitions, an ASC licensed under Health and Safety Code Chapter 243 may provide surgical services and other health care services to patients and may keep patients for longer than 23 hours.

### **2.2 Emergency Rule §135.26 Reporting Requirements.**

Under the emergency rule amendment to §135.26, Reporting Requirements, an ASC licensed under Health and Safety Code Chapter 243 is not required to report the following incidents to HHSC:

- (1) the transfer of a patient to a hospital; or
- (2) a patient stay exceeding 23 hours.

A licensed ASC must still comply with existing requirements to report:

- (1) the death of a patient while under the care of the ASC; and
- (2) patient development of complications within 24 hours of discharge from the ASC resulting in admission to a hospital.

In addition to these reporting requirements, ASCs are also required to report any information required by DSHS to that agency in the manner it prescribes.

### **3.0 Background/History**

HHSC originally adopted an emergency rule amendment for ASC Definitions and Reporting Requirements on March 27, 2020 and extended it on July 24, 2020. The emergency rule expired on September 22, 2020.

In accordance with Texas Government Code §2001.034, HHSC adopted emergency rule amendments to §135.2 and §135.26 in 25 TAC, Part 1, Chapter 135, Subchapter A, Operating Requirements for Ambulatory Surgical Centers, on September 23, 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

View emergency rule §135.2 and §135.26 in the Texas Register by searching Texas Register Docket Number (TRD ID): **202003887** 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](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](mailto:HCR_PRT@hhs.texas.gov).