

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 554 NURSING FACILITY REQUIREMENTS FOR LICENSURE AND
MEDICAID CERTIFICATION
SUBCHAPTER CC COVID-19 EMERGENCY RULE

EMERGENCY RULE ADOPTION PREAMBLE

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26, Texas Administrative Code, Chapter 554, Nursing Facility Requirements for Licensure and Medicaid Certification, new §554.2804, concerning an emergency rule in response to COVID-19 in order to track vaccinations of staff and residents in nursing facilities in Texas and require enrollment for the emergency communication system. As authorized by Government Code, §2001.034, the Commission may adopt an emergency rule without prior notice or hearing if it finds that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Government Code, §2001.034, may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to support the governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this emergency rule for Nursing Facility COVID-19 Vaccination Data Reporting and Emergency Communication System Enrollment.

To protect nursing facility residents and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to require nursing facilities to accurately report COVID-19 vaccination data for staff and residents to HHSC in the format established by HHSC within 24 hours of becoming aware of a staff or resident's COVID-19 vaccination and to require the administrator and director of nurses to enroll in an emergency communication system. The rule is necessary to accurately track vaccinations of staff and residents in long-term care facilities in Texas and to facilitate timely emergency communications between HHSC and nursing facilities in Texas.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055, and Texas Health and Safety Code §242.001 and §242.037. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public

health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by health and human services system. Texas Health and Safety Code §242.001 states the goal of Chapter 242 is to ensure that nursing facilities in Texas deliver the highest possible quality of care and establish the minimum acceptable levels of care for individuals who are living in a nursing facility. Texas Health and Safety Code §242.037 requires the Executive Commissioner of HHSC to make and enforce rules prescribing minimum standards quality of care and quality of life for nursing facility residents.

The new rule implements Texas Government Code §531.0055 and Texas Health and Safety Code Chapter 242.

The agency hereby certifies that the emergency rulemaking has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

ADDITIONAL INFORMATION

For further information, please call: (512) 438-3161.

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§554.2804. Nursing Facility COVID-19 Vaccination Data Reporting and Emergency Communication System Enrollment.

(a) A nursing facility administrator and director of nurses must enroll in an emergency communication system in accordance with instructions from the Texas Health and Human Services Commission (HHSC).

(b) A nursing facility must respond to requests for information received through the emergency communication system in the format established by HHSC.

(c) Within 24 hours of becoming aware of a staff or resident's COVID-19 vaccination, a nursing facility must accurately report COVID-19 vaccination data for staff and residents to HHSC in the format established by HHSC.

(d) A nursing facility reporting staff and resident COVID-19 vaccination data to the National Healthcare Safety Network, in accordance with 42 Code of Federal Regulations §483.80(g)(1)(viii), is not required to report COVID-19 vaccination data to HHSC.