



Updated Guidance on the Governor's Disaster Proclamation

Background:

On May 31, 2021, Governor Abbott issued a proclamation declaring a disaster in the state of Texas due to individuals unlawfully crossing the Texas-Mexico border. The proclamation directed the Health and Human Services Commission (HHSC) to discontinue state licensing of any child-care facility that shelters or detains unlawfully present individuals.

The Texas Health and Human Services Commission (HHSC) has adopted rules relating to Gov. Greg Abbott's disaster proclamation issued May 31, 2021. The rules are effective July 8, 2022.

Who is considered an unlawfully present individual?

An unlawfully present individual is an individual not lawfully present in the United States who is in the custody of the federal government. This term does not include participants in a federal unaccompanied refugee minor program.

What is a "GRO permit"?

A "GRO permit" is a license or certification that HHSC issues under Chapter 42 of the Human Resources Code for the operation of a General Residential Operation (GRO).

What residential child-care operations are subject to the proclamation?

The proclamation does not apply to child-placing agencies or to child-care programs that are exempt from or otherwise not subject to regulation by HHSC. A program that provides 24-hour care exclusively to one or more individuals not lawfully present in the United States who are in the custody of the federal government is an exempt program, as provided by 26 TAC 745.115.

May a permit holder operate a GRO and an exempt program for individuals who are unlawfully present in the same location?

A GRO may provide care for the unlawfully present individuals in a separately operated program that is exempt from or otherwise not subject to regulation.

If you operate as a GRO and an exempt program for individuals who are unlawfully present in the same location, you must submit a plan to Residential Child Care Regulation showing how you will ensure the following:

1. Your exempt program has separate caregivers from the GRO or has caregivers that do not provide care at the GRO while caring for children at the exempt program that is not subject to regulation; and
2. Your exempt program does not use an area of the GRO's building or grounds at the same time as the GRO is using the area. The GRO and exempt program may share restrooms and indoor/outdoor activity areas. In addition, the plan must include how each population will be supervised when using shared space, such as restrooms and indoor/outdoor activity areas.

When will HHSC revoke or refuse to renew my GRO permit?

HHSC will revoke or refuse to renew your GRO permit if we determine you are continuing to provide care to unlawfully present individuals under your GRO permit and do not meet all requirements of the probation within the first 30 days of the probationary period.

Can I submit a variance to serve an unlawfully present individual?

No, a GRO cannot care for an unlawfully present individual under its GRO permit. A waiver or variance only applies to an operation's ability to meet a specific minimum standard in 26 Texas Administrative Code chapter 748.

How do I submit an exemption request to provide care for unlawfully present individuals?

If you would like to provide care for unlawfully present individuals, you may submit an [exemption form](#) to the following email address to be reviewed by a Program Specialist: RCCRStan@hhs.texas.gov.

Your exemption reason will be listed under Section D- Federal Exemption.

Please contact RCCRStan@hhs.texas.gov for any questions related to this exemption.

For more information regarding providing care for unlawfully present individuals contact rccrstan@hhs.texas.gov.