EMERGENCY RULE ADOPTION PREAMBLE

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26, Part 1, Texas Administrative Code, Chapter 551, Intermediate Care Facilities for Individuals with an Intellectual Disability (ICF/IID) or Related Conditions, new §551.47, concerning an emergency rule in response to COVID-19 describing requirements for limited indoor and outdoor visitation in ICF/IID. As authorized by Texas Government Code §2001.034, the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days’ notice. Emergency rules adopted under Texas 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 and directed that government entities and businesses would continue providing essential services. This emergency rulemaking reflects the continued reopening of the State of Texas. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this Intermediate Care Facility COVID-19 Response--Expansion of Reopening Visitation.

To protect intermediate care facility residents and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting a new emergency rule to require limited indoor and outdoor visitation in an intermediate care facility. The purpose of the new rule is to describe the requirements related to such visits.

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 the health and human services system. 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. 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 residents who are living in a nursing facility.


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.

(a) The following words and terms, when used in this subchapter, have the following meanings.

(1) Closed window visit--A personal visit between a visitor and an individual during which the individual and visitor are separated by a closed window and the visitor does not enter the building.

(2) COVID-19 negative--The status of a person who has tested negative for COVID-19, is not exhibiting symptoms of COVID-19, and has had no known exposure to the virus in the last 14 days.

(3) COVID-19 positive--The status of a person who has tested positive for COVID-19 and does not yet meet Centers for Disease Control and Prevention (CDC) guidance for the discontinuation of transmission-based precautions.

(4) End-of-life visit--A personal visit between a visitor and an individual who is receiving hospice services or who is at or near the end of life, with or without receiving hospice services, or whose prognosis does not indicate recovery. An end-of-life visit is permitted in all facilities and for all individuals at or near the end of life.

(5) Essential caregiver--A family member or other outside caregiver, including a friend, volunteer, clergy member, private personal caregiver, or court-appointed guardian, who is at least 18 years old and has been designated by the individual or legal representative.

(6) Essential caregiver visit--A personal visit between an individual and an essential caregiver. An essential caregiver visit is permitted for all individuals with any COVID-19 status.

(7) Facility-acquired COVID-19 infection--COVID-19 infection that is acquired after admission in a facility and was not present at the end of the 14-day quarantine period following admission or readmission.

(8) Individual--A person enrolled in the intermediate care facilities for individuals with an intellectual disability or related conditions program.
(9) Indoor visit--A personal visit between an individual and one or more personal visitors that occurs in-person in a dedicated indoor space.

(10) Large intermediate care facility--An intermediate care facility serving 17 or more individuals in one or more buildings.

(11) Open window visit--A personal visit between an individual and a personal visitor during which the individual and personal visitor are separated by an open window.

(12) Outbreak--One or more laboratory confirmed cases of COVID-19 identified in either an individual or paid or unpaid staff.

(13) Outdoor visit--A personal visit between an individual and one or more personal visitors that occurs in-person in a dedicated outdoor space.

(14) Persons providing critical assistance--Providers of essential services, persons with legal authority to enter, family members or friends of individuals at the end of life, and designated essential caregivers.

(15) Persons with legal authority to enter--Law enforcement officers and government personnel performing their official duties.

(16) Physical distancing--Maintaining a minimum of six feet between persons, avoiding gathering in groups in accordance with state and local orders, and avoiding unnecessary physical contact.

(17) Plexiglass indoor visit--A personal visit between an individual and one or more personal visitors, during which the individual and the personal visitor are both inside the facility but within a booth separated by a plexiglass barrier.

(18) PPE--Personal protective equipment.

(19) Providers of essential services--Contract doctors or nurses, home health and hospice workers, health care professionals, contract professionals, clergy members and spiritual counselors, guardianship specialists, advocacy professionals, and individuals operating under the authority of a local intellectual and developmental disability authority or a local mental health authority, whose services are necessary to ensure individual health and safety.

(20) Salon services visit--A personal visit between an individual and a salon services visitor.

(21) Salon services visitor--A barber, beautician, or cosmetologist providing hair care or personal grooming services to an individual.
(22) Small intermediate care facility--An intermediate care facility serving 16 or fewer individuals.

(23) Unknown COVID-19 status--The status of a person who is a new admission or readmission, has spent one or more nights away from the facility, has had known exposure or close contact with a person who is COVID-19 positive, or who is exhibiting symptoms of COVID-19 while awaiting test results.

(24) Vehicle parade--A personal visit between an individual and one or more personal visitors, during which the individual remains outdoors on the intermediate care facility campus, and a personal visitor drives past in a vehicle.

(b) Visitors, except for essential caregivers, may be any age. Visitors under the age of two are exempt from all requirements related to wearing masks described in this section.

(c) An intermediate care facility must screen all visitors prior to allowing them to enter the facility in accordance with subsection (d) of this section, except emergency services personnel entering the facility or facility campus in an emergency. Visitor screenings must be documented in a log kept at the entrance to the facility, which must include the name of each person screened, the date and time of the screening, and the results of the screening. The visitor screening log may contain protected health information and must be protected in accordance with applicable state and federal law.

(d) Visitors who meet any of the following screening criteria must leave the facility and reschedule the visit:

(1) fever, defined as a temperature of 100.4 Fahrenheit and above, or signs or symptoms of a respiratory infection, such as cough, shortness of breath, or sore throat;

(2) other signs or symptoms of COVID-19, including chills, new or worsening cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea;

(3) any other signs and symptoms as outlined by the CDC in Symptoms of Coronavirus at cdc.gov;

(4) contact in the last 14 days with someone who has a confirmed diagnosis of COVID-19, is under investigation for COVID-19, or is ill with a respiratory illness, regardless of whether the person is fully vaccinated; or

(5) has tested positive for COVID-19 in the last 10 days.
(e) An intermediate care facility must allow persons providing critical assistance, including essential caregivers, and persons with legal authority to enter to enter the facility if they pass the screening in subsection (d) of this section.

(f) A person providing critical assistance who has had contact with an individual with COVID-19 positive or COVID-19 unknown status, but does not meet the CDC definition of close contact or unprotected exposure, must not be denied entry to the facility unless the person providing critical assistance does not pass the screening criteria described in subsection (d)(1) - (3) and (5) of this section, or any other screening criteria based on CDC guidance.

(g) If the facility has offered a complete series of a one- or two-dose COVID-19 vaccine to individuals and staff and documented each individual’s choice to vaccinate or not vaccinate, the facility must allow essential caregiver visits, end-of-life visits, indoor visits, and outdoor visits as required by this subsection. If an intermediate care facility fails to comply with the requirements of this section, HHSC may impose licensure remedies in accordance with Subchapter H of this chapter (relating to Enforcement).

(1) A facility may not require a visitor to provide documentation of a COVID-19 negative test or COVID-19 vaccination status as a condition of visitation or to enter the facility.

(2) The following requirements apply to essential caregiver visits.

(A) There may be up to two permanently designated essential caregivers per individual.

(B) Up to two essential caregivers may visit a resident at the same time.

(C) The visit may occur outdoors, in the individual’s bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other individuals and staff.

(D) Essential caregiver visitors do not have to maintain physical distancing between themselves and the individual they are visiting but must maintain physical distancing between themselves and all other individuals and staff.

(E) The individual must wear a facemask or face covering over both the nose and mouth, if tolerated, throughout the visit.

(F) The facility must develop and enforce essential caregiver visitation policies and procedures, which include:

(i) a written agreement that the essential caregiver understands and agrees to follow the applicable policies, procedures, and requirements;
(ii) training each designated essential caregiver on proper PPE usage and infection control measures, hand hygiene, and cough and sneeze etiquette;

(iii) a requirement that the essential caregiver must wear a facemask or face covering and any other appropriate PPE recommended by CDC guidance and the facility’s policy while in the facility; for individuals who rely on lip reading or facial cues for communication needs, the essential caregiver may use a face mask with a clear screen over the mouth;

(iv) expectations regarding using only designated entrances and exits as directed, if applicable; and

(v) limiting visitation to the area designated by the facility in accordance with subparagraph (C) of this paragraph.

(G) An intermediate care facility must:

(i) inform the essential caregiver of applicable policies, procedures, and requirements;

(ii) approve the essential caregiver visitor’s facemask or face covering and any other appropriate PPE recommended by CDC guidance and the facility’s policy, or provide an approved facemask or face covering and other appropriate PPE;

(iii) maintain documentation of the essential caregiver’s agreement to follow the applicable policies, procedures and requirements;

(iv) maintain documentation of the essential caregiver’s training as required in subparagraph (F)(ii) of this paragraph;

(v) maintain documentation of the identity of each essential caregiver in the individual’s records and verify the identity of the essential caregiver at the time of each visit; and

(vi) maintain a record of each essential caregiver visit, including:

(I) the date and time of the arrival and departure of the essential caregiver visitor;

(II) the name of the essential caregiver visitor;

(III) the name of the individual being visited; and

(IV) attestation that the identity of the essential caregiver visitor was confirmed; and

(vii) prevent visitation by the essential caregiver visitor if the essential
caregiver has signs and symptoms of COVID-19 or an active COVID-19 infection.

(H) The facility may cancel the essential caregiver visit if the essential caregiver fails to comply with the facility’s policy regarding essential caregiver visits or applicable requirements in this section.

(3) To permit indoor visitation, a large intermediate care facility must:

(A) have separate areas, units, wings, halls, or buildings designated for COVID-19 positive, COVID-19 negative, and unknown COVID-19 status individual cohorts; and

(B) ensure staff are designated to work with only one individual cohort and the designation does not change from one day to another.

(4) An intermediate care facility must provide instructional signage throughout the facility and proper visitor education regarding:

(A) the signs and symptoms of COVID-19;

(B) infection control precautions; and

(C) other applicable facility practices (e.g., use of facemasks and other appropriate PPE, specified entries and exits, routes to designated areas, and hand hygiene).

(5) The following limits apply to all visitation allowed under this section.

(A) Visitation appointments must be scheduled to allow time for cleaning and sanitization of the visitation area between visits.

(B) Except as provided in subparagraph (C) of this paragraph, indoor visits and outdoor visits are permitted only for individuals who are COVID-19 negative.

(C) Essential caregiver visits and end-of-life visits are permitted for individuals who have COVID-19 negative, COVID-19 positive, or unknown COVID-19 status.

(D) An individual may choose to have close or personal contact with their visitor during the visit. The visitor must maintain physical distancing between themselves and all other persons in the facility.

(E) Visits are permitted where adequate space is available as necessary to ensure physical distancing between visitation groups and safe infection prevention and control measures, including the individual’s room. The facility must limit the movement of the visitor through the facility to ensure interaction with other persons in the facility is minimized.
(F) The visitor must wear a facemask or face covering over both the mouth and nose throughout the visit. For individuals who rely on lip reading or facial cues for communication needs, the visitor may use a face mask with a clear screen over the mouth.

(G) The facility must encourage the individual to wear a facemask or face covering over both the nose and mouth, if tolerated, throughout the visit. The individual may remove their facemask or face covering to eat or drink during the visit.

(H) A facility must ensure equal access by all individuals to visitors and essential caregivers.

(I) Cleaning and disinfecting the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit.

(J) A facility must ensure a comfortable and safe outdoor visitation area for outdoor visits, considering outside air temperature and ventilation.

(K) A facility must provide hand-washing stations, or hand sanitizer, to the visitor and individual before and after visits.

(L) The visitor and the individual must practice hand hygiene before and after the visit.

(h) If the facility has not offered a complete series of a one- or two-dose COVID-19 vaccine to individuals, the facility must allow limited personal visitation, as described in this subsection, upon meeting the qualifications described in paragraph (3) of this subsection. These criteria are not required for a closed window visit, an end-of-life visit, or an essential caregiver visit as defined in subsections (a)(1), (4), and (6) of this section. If an intermediate care facility fails to comply with the requirements of this section, HHSC may impose licensure remedies in accordance with Subchapter H of this chapter (relating to Enforcement).

(1) A facility may not require a visitor to provide documentation of a COVID-19 negative test or COVID-19 vaccination status as a condition of visitation or to enter the facility.

(2) The following requirements apply to essential caregiver visits.

(A) There may be up to two permanently designated essential caregiver visitors per individual.

(B) Only one essential caregivers at a time may visit an individual.

(C) The visit may occur outdoors, in the individual’s bedroom, or in another area in the facility that limits visitor movement through the facility and interaction
with other individuals and staff.

(D) Essential caregiver visitors do not have to maintain physical distancing between themselves and the individual they are visiting but must maintain physical distancing between themselves and all other individuals and staff.

(E) The individual must wear a facemask or face covering over both the nose and mouth, if tolerated, throughout the visit.

(F) The facility must develop and enforce essential caregiver visitation policies and procedures, which include:

(i) a written agreement that the essential caregiver understands and agrees to follow the applicable policies, procedures, and requirements;

(ii) training each designated essential caregiver on proper PPE usage and infection control measures, hand hygiene, and cough and sneeze etiquette;

(iii) the essential caregiver wearing a facemask or face covering, and any other appropriate PPE recommended by CDC guidance and the facility’s policy while in the facility; for individuals who rely on lip reading or facial cues for communication needs, the essential caregiver may use face masks with a clear screen over the mouth;

(iv) expectations regarding using only designated entrances and exits as directed, if applicable; and

(v) limiting visitation to the area designated by the facility in accordance with subparagraph (C) of this paragraph.

(G) An intermediate care facility must:

(i) inform the essential caregiver visitor of applicable policies, procedures, and requirements;

(ii) approve the essential caregiver visitor’s facemask or face covering and any other appropriate PPE recommended by CDC guidance and the facility’s policy, or provide an approved facemask or face covering and other appropriate PPE;

(iii) maintain documentation of the essential caregiver visitor’s agreement to follow the applicable policies, procedures and requirements;

(iv) maintain documentation of the essential caregiver visitor’s training as required in subparagraph (F)(ii) of this paragraph;

(v) document the identity of each essential caregiver in the individual’s records and verify the identity of the essential caregiver by creating an essential
caregiver visitor badge;

(vi) maintain a record of each essential caregiver visit, including:

(I) the date and time of the arrival and departure of the essential caregiver visitor;

(II) the name of the essential caregiver visitor;

(III) the name of the individual being visited; and

(IV) attestation that the identity of the essential caregiver visitor was confirmed; and

(vii) prevent visitation by the essential caregiver visitor if the essential caregiver has signs and symptoms of COVID-19 or an active COVID-19 infection.

(H) The facility may cancel the essential caregiver visit if the essential caregiver fails to comply with the facility’s policy regarding essential caregiver visits or applicable requirements in this section.

(3) To allow limited personal visitation in accordance with paragraph (7) of this subsection, an intermediate care facility must submit a completed HHSC Long-term Care Regulation (LTCR) form 2195, COVID-19 Status Attestation Form, including a facility map indicating which areas, units, wings, halls, or buildings accommodate COVID-19 negative, COVID-19 positive, and unknown COVID-19 status individuals, to the Regional Director in the LTCR Region where the facility is located. A facility with previous approval for visitation designation does not have to submit Form 2195 and a facility map, unless the previous visitation approval has been withdrawn, rescinded, or cancelled. To receive a facility visitation designation, an intermediate care facility must demonstrate:

(A) there are separate areas, which include enclosed rooms such as bedrooms or activities rooms, units, wings, halls, or buildings designated for individual cohorts who are COVID-19 positive, COVID-19 negative, or unknown COVID-19 status;

(B) separate dedicated staff are working exclusively in the separate areas, units, wings, halls, or buildings for individuals who are COVID-19 positive, COVID-19 negative, or unknown COVID-19 status;

(C) there have been no confirmed COVID-19 cases for at least 14 consecutive days in staff working in the area, unit, wing, hall, or building that accommodates individuals who are COVID-19 negative;

(D) there have been no facility-acquired COVID-19 confirmed cases for at least 14 consecutive days in individuals in the COVID-19 negative area, unit, wing,
hall, or building;

    (E) staff are designated to work with only one individual cohort and the designation does not change from one day to another;

    (F) evidence upon HHSC request of daily screening for staff and individuals, if a testing strategy is not used; and

    (G) if an intermediate care facility has had previous cases of COVID-19 in staff or individuals in the area, unit, wing, hall, or building that accommodates individuals who are COVID-19 negative, LTCR may conduct a verification survey to confirm the following:

        (i) all staff and individuals in the COVID-19 negative area, unit, wing, hall, or building have fully recovered;

        (ii) the intermediate care facility has adequate staffing to continue care for all individuals and administer visits permitted by this section; and

        (iii) the intermediate care facility is in compliance with infection control requirements and emergency rules related to COVID-19.

(4) A small intermediate care facility that cannot provide separate areas, units, wings, halls, or buildings for individuals who are COVID-19 positive, COVID-19 negative, or unknown COVID-19 status must demonstrate:

    (A) there have been no confirmed COVID-19 cases for at least 14 consecutive days in staff;

    (B) there have been no facility-acquired COVID-19 confirmed cases for at least 14 consecutive days in individuals; and

    (C) if an intermediate care facility has had previous cases of COVID-19 in staff or individuals, LTCR may conduct a verification survey and confirm the following:

        (i) all staff and individuals have fully recovered;

        (ii) the intermediate care facility has adequate staffing to continue care for all individuals and administer visits permitted by this section; and

        (iii) the intermediate care facility is in compliance with infection control requirements and emergency rules related to COVID-19.

(5) An intermediate care facility that does not meet the criteria in paragraphs (3) or (4) of this subsection, to receive a visitation designation must:
(A) permit closed window visits and visits by persons providing critical assistance, including essential caregiver visits and end-of-life visits;

(B) develop and implement a plan describing the steps the facility intends to take to meet the visitation designation; and

(C) submit the plan to the Regional Director in the LTCR Region where the facility is located within five business days of submitting the form or of receiving notification from HHSC that the intermediate care facility was not approved for visitation designation.

(6) An intermediate care facility may request exemption from the requirements in this section that a facility with a visitation designation must allow certain personal visits. Facilities may not request, and HHSC will not approve, an exemption from closed window visits or visits by persons providing critical assistance, including essential caregivers and end-of-life visits. If the intermediate care facility determines it is unable to meet one or more of the other visitation requirements of this section, the facility must request exemption from that requirement and explain its inability to meet the visitation requirement on the COVID-19 Status Attestation Form. HHSC will notify the intermediate care facility if a temporary exemption for a specific visit type is granted and the time period for exemption.

(7) An intermediate care facility must provide instructional signage throughout the facility and proper visitor education regarding:

(A) the signs and symptoms of COVID-19 signs;

(B) infection control precautions; and

(C) other applicable facility practices (e.g., use of facemask or other appropriate PPE, specified entries and exits, routes to designated visitation areas, and hand hygiene).

(8) Except if approved by HHSC for an exemption under paragraph (6) of this subsection, an intermediate care facility with a facility visitation designation must allow outdoor visits, open window visits, vehicle parades, and plexiglass indoor visits involving individuals and personal visitors. The following requirements apply to all visitation allowed under this subsection, and all other visitation types as specified:

(A) Open window visits, vehicle parades, outdoor visits, and plexiglass indoor visits are permitted as can be accommodated by the facility only for individuals who are COVID-19 negative.
(B) Closed window visits, end-of-life visits, and essential caregiver visits are permitted for individuals who are COVID-19 negative, COVID-19 positive, or unknown COVID-19 status as can be accommodated by the facility.

(C) Physical contact between individuals and visitors is prohibited, except for essential caregiver visits and end-of-life visits.

(D) Visits are permitted only where adequate space is available that meets the criteria and when adequate staff are available to comply with this section. Essential caregiver visits and end-of-life visits can take place in the individual’s room or other area of the facility separated from other individuals. The facility must limit the movement of the visitor through the facility to ensure interaction with other individuals is minimized.

(E) The visitor must wear a facemask or face covering over both the mouth and nose throughout the visit, except visitors participating in a vehicle parade or closed window visit.

(F) The individual must wear a facemask or face covering over both the mouth and nose, if tolerated, throughout the visit.

(G) The facility must remind personal visitors and individuals about physical distancing of at least six feet and face mask or face covering requirements, either verbally or with a notice posted visible to personal visitors or handed to them. The facility must limit the number of visitors and individuals in the visitation area as needed to ensure physical distancing is maintained. Essential caregiver and end-of-life visitors do not have to maintain physical distancing between themselves and the individual they are visiting, but they must maintain physical distancing between themselves and all other individuals, staff, and other visitors.

(H) Cleaning and disinfecting the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit. The facility must schedule visits as necessary to allow time for sanitization between visits.

(I) The facility must ensure a comfortable and safe outdoor visiting area for outdoor visits, open window visits, and vehicle parades, considering outside air temperatures, weather conditions, and ventilation.

(J) For outdoor visits, the facility must designate an outdoor area for visitation that is separated from individuals and limits the ability of the visitor to interact with individuals.

(K) A facility must provide hand washing stations or hand sanitizer to the visitor and individual before and after visits, except visitors participating in a vehicle parade or closed window visit.
(L) The visitor and the individual must practice hand hygiene before and after
the visit, except visitors participating in a vehicle parade or closed window visit.

(9) The following requirements apply to vehicle parades.

(A) Visitors must remain in their vehicles throughout the parade.

(B) The intermediate care facility must ensure physical distancing of at least
six feet is maintained between individuals throughout the parade.

(C) The intermediate care facility must ensure individuals are not closer than
10 feet to the vehicles for safety reasons.

(D) The facility must encourage individuals to wear a facemask or face
covering over both the mouth and nose, if tolerated, throughout the visit.

(10) The following requirements apply to plexiglass indoor visits.

(A) The plexiglass barrier must be installed in an area where it does not
impede a means of egress, does not impede or interfere with any fire safety
equipment or system, and minimizes access to the rest of the facility or contact
between personal visitors and other individuals.

(B) Prior to using the booth, the facility must submit for approval a photo of
the plexiglass visitation booth and its location in the facility to the Life Safety Code
Program Manager in the LTCR Region in which the facility is located and must
receive approval from HHSC.

(C) The visit must be supervised by facility staff for the duration of the visit.

(D) The individual must wear a facemask or face covering over both the
mouth and nose, if tolerated, throughout the visit.

(E) The visitor must wear a facemask or face covering over both the mouth
and nose throughout the visit.

(F) The facility shall limit the number of visitors and individuals in the
visitation area as needed.

(i) A facility may allow a salon services visitor to enter the facility to provide
services to an individual only if:

(1) the salon services visitor passes the screening described in subsection (d) of
this section;

(2) the salon services visitor agrees to comply with the most current version of
the Minimum Standard Health Protocols – Checklist for Cosmetology Salons/Hair
Salons, located on open.texas.gov; and

(3) the requirements of subsection (j) of this section are met.

(j) The following requirements apply to salon services visits.

(1) A salon services visit may be permitted for all individuals with COVID-19 negative status.

(2) The visit may occur outdoors, in the individual’s bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other persons in the facility.

(3) Salon services visitors do not have to maintain physical distancing between themselves and each individual they are visiting, but they must maintain physical distancing between themselves and all other persons in the facility.

(4) The individual must wear a facemask or face covering over both the mouth and nose, if tolerated, throughout the visit.

(5) The intermediate care facility must develop and enforce salon services visitation policies and procedures, which include:

   (A) a testing strategy for salon services visitors;

   (B) a written agreement that the salon services visitor understands and agrees to follow the applicable policies, procedures, and requirements;

   (C) training each salon services visitor on proper PPE usage and infection control measures, hand hygiene, and cough and sneeze etiquette;

   (D) the salon services visitor must wear a facemask and any other appropriate PPE recommended by CDC guidance and the facility’s policy while in the facility;

   (E) expectations regarding using only designated entrances and exits, as directed; and

   (F) limiting visitation to the area designated by the facility, in accordance with paragraph (2) of this subsection.

(6) The intermediate care facility must:

   (A) inform the salon services visitor of applicable policies, procedures, and requirements;

   (B) approve the visitor’s facemask or provide an approved facemask;
(C) maintain documentation of the salon services visitor’s agreement to follow the applicable policies, procedures and requirements;

(D) maintain documentation of the salon services visitor’s training, as required in paragraph (5)(C) of this subsection;

(E) document the identity of each salon services visitor in the facility’s records and verify the identity of the salon services visitor;

(F) maintain a record of each salon services visit, including:

(i) the date and time of the arrival and departure of the salon services visitor;

(ii) the name of the salon services visitor;

(iii) the name of the individual being visited; and

(iv) attestation that the identity of the salon services visitor was confirmed; and

(G) prevent visitation by the salon services visitor if the individual has an active COVID-19 infection.

(7) The facility may cancel the salon services visit if the salon services visitor fails to comply with the facility’s policy regarding salon services visits or applicable requirements in this section.

(k) If, at any time after facility visitation designation is approved by HHSC, the area, unit, wing, hall, or building accommodating individuals who are COVID-19 negative, or facility-wide for small intermediate care facilities that received visitation designation in accordance with subsection (h)(5) of this section, experiences an outbreak of COVID-19, the facility must notify the Regional Director in the LTCR Region where the facility is located that the area, unit, wing, hall, building or facility no longer meets visitation criteria, and all visit types authorized under the facility’s visitation designation, including outdoor visits, open window visits, vehicle parades, and indoor plexiglass visits, must be cancelled until the area, unit, wing, hall, building or facility meets the criteria described in subsection (h)(4) or (5) of this section and visitation approval is provided by HHSC.

(l) If an intermediate care facility fails to comply with the requirements of this section, HHSC may rescind the visitation designation and may impose licensure remedies in accordance with Subchapter H of this chapter (relating to Enforcement).

(m) 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 rule or any minimum standard relating to a facility, the facility must comply with the executive order or other direction.