



Health Care Regulation Guidance Letter

Number: GL 24-0001
Title: Updated Freestanding Emergency Medical Care Facility Rules
Provider Types: Freestanding Emergency Medical Care Facilities
Date Issued: July 2, 2024

1.0 Subject and Purpose

The Texas Health and Human Services Commission (HHSC) provides guidance to licensed providers on rule updates, including adopted rules implementing legislation impacting their provider type.

This letter notifies licensed freestanding emergency medical care (FEMC) facilities that HHSC amended the FEMC facility rules to:

- Relocate rules from Texas Administrative Code Title 25 (25 TAC) Chapter 131, Subchapters A - E, to [26 TAC Chapter 509](#).
- Implement [Senate Bill \(SB\) 425](#), 84th Legislature, Regular Session, 2015, which added [Texas Health and Safety Code \(HSC\) Chapter 241, Subchapter J](#).
- Implement [House Bill \(HB\) 2041](#) and [HB 1112](#), 86th Legislature, Regular Session, 2019, which amended [Texas Health and Safety Code \(HSC\) Chapter 254](#).
- Revise rules in [26 TAC Chapter 509, Subchapter D](#), regarding Inspection and Investigation Procedures, and [26 TAC Chapter 509, Subchapter E](#), regarding Enforcement, to outline facility documentation expectations to increase consistency across facility rule sets.
- Update language throughout 26 TAC Chapter 509 to reflect the regulatory transition from the Department of State Health Services (DSHS) to HHSC.
- Correct outdated references and citations.

2.0 Background and History

The licensing and regulatory authority for FEMC facilities transferred from DSHS to HHSC on September 1, 2017.

As stated in [SB 425's author's and sponsor's statement of intent](#), SB 425 was developed to increase price transparency for consumers by requiring FEMC facilities to post a sign containing:

- Information so that an individual is fully aware that they are seeking services in an FEMC facility, and not an urgent care clinic.
- Whether the facility participates in a provider network, and the providers working in the facility that do not participate in each network.
- A statement that out of network providers may bill separately from the facility.
- The minimum and maximum amounts the physician charges and the facility fee are likely to be per visit.

In accordance with [HB 2041's author's and sponsor's statement of intent](#), HB 2041 amended current law relating to the regulation of FEMC facilities, including requiring FEMC facilities to:

- Remove signage indicating that the facility is open when a facility closes.
- Comply with updated advertising requirements.
- Provide a disclosure statement to consumers.

As stated in [HB 1112's author's and sponsor's statement of intent](#), HB 1112 was developed because of concerns over delays in the removal of outdoor signage of FEMC facilities that are not in operation. HB 1112 was written to address those concerns by requiring each FEMC facility to remove signs from the public view immediately after the facility closes or loses its license to ensure that no one in need of emergency medical care is unnecessarily delayed in the care they need.

3.0 Details on Adopted Rules and Provider Responsibilities

Effective December 4, 2023, HHSC repealed the FEMC facility rules in 25 TAC Chapter 131, Subchapters A – E and adopted new rules in [26 TAC Chapter 509](#). The FEMC facility fire prevention and safety requirements and

physical plant and construction requirements remain at 25 TAC Chapter 131 [Subchapter F](#) and [Subchapter G](#). Refer to [Appendix A](#) below for a cross-walk of the repealed versus new rules.

The new rules in 26 TAC Chapter 509 are similar to the repealed rules in 25 TAC Chapter 131. The revisions include updated:

- Rules in [Subchapter A, General Provisions](#), to correct outdated titles, remove a defined term not used in the chapter, and update contact information.
- Rules in [Subchapter B, Licensing Requirements](#), and [Subchapter C, Operational Requirements](#), to implement [HB 2041](#) and [HB 1112](#).
- Rules in [Section 509.26, Inactive Status and Closure](#), to modify the previous language in repealed Title 25 TAC Section 131.27 to clarify the inactive status and closure guidelines for a facility that is not staffed and open for more than five calendar days.
- Rules in [Section 509.30, Fees](#), to increase the term for initial and renewal licenses from one year to two years and accordingly double the corresponding license fees because that amount is reasonable and necessary to defray the cost of administering [HSC Chapter 254](#) over that timeframe.
- Rules in [Section 509.60, Patient Rights](#), to implement [SB 425](#).
- Rules in [Subchapter D, Inspection and Investigation Procedures](#), to comprehensively update HHSC inspection and investigation procedures for FEMC facilities to clarify provider expectations and provide greater consistency between 26 TAC Chapter 509 and rules for other facility types.
- Rules in [Subchapter E, Enforcement](#), to correct outdated titles, citations, and contact information, and increase consistency with HSC Chapter 254 and rules for other facility types.
- Rules throughout the chapter to correct outdated information, correct citations, provide clarity, improve readability, and ensure consistency with HHSC rulemaking guidelines.

3.1 Rules Implementing Legislation

New [26 TAC Section 509.26\(c\)](#) implements [HSC Section 254.156](#), as added by [HB 1112](#), and [HSC Section 254.158](#), as added by [HB 2041](#), which

requires an FEMC facility to immediately remove the signs from the facility if the facility closes or its license is expired, suspended, or revoked.

New [26 TAC Section 509.41\(l\) and \(m\)](#) implement [HSC Section 254.157](#), as added by HB 2041, which prohibits certain advertising and marketing practices relating to insurers and health benefit plans.

New [26 TAC Section 509.60\(h\)](#) implements [HSC Section 254.155](#), as added by [SB 425](#) and amended by HB 2041, which requires an FEMC facility to post a notice of fees in certain locations within the facility and on the facility's website.

New [26 TAC Section 509.60\(i\)](#) implements HSC Section 254.156, as added by HB 2041, which requires an FEMC facility provide a written disclosure statement that details the facility's fees and accepted health benefit plans to a patient or the patient's legally authorized representative.

New [26 TAC Section 509.60\(j\)](#) implements SB 425 by requiring facilities to comply with the billing of facility services and supplies requirements in [HSC Chapter 324, Subchapter C](#).

3.2 Inspection and Investigation Procedures

New [26 TAC Chapter 509, Subchapter D, Inspection and Investigation Procedures](#), includes comprehensive updates to the HHSC inspection and investigation procedures for FEMC facilities. These updates clarify provider expectations and provide greater consistency between this chapter and rules for other facility types.

New [26 TAC Section 509.81](#) clarifies an FEMC facility is restricted from recording HHSC interviews or internal discussions during an inspection and investigation and that a facility must inform HHSC when recording devices are present during any internal discussion by HHSC staff.

New [26 TAC Section 509.82\(a\)](#) clarifies that in addition to investigating allegations determined to be within HHSC's regulatory jurisdiction, HHSC may conduct an unannounced, on-site facility inspection to evaluate compliance with or prevent a violation of:

- Any applicable statute or rule
- The facility's plan of correction
- An order or special order of the executive commissioner or the executive commissioner's designee

- A court order granting injunctive relief
- For other purposes relating to regulation of the facility

New [26 TAC Section 509.83\(a\)\(1\)](#) requires an FEMC facility to provide each patient and applicable consentor with a written statement informing persons how they may direct a complaint against the facility to HHSC Complaint and Incident Intake (CII).

New [26 TAC Section 509.83\(a\)\(2\)](#) requires an FEMC facility to prominently post this statement in patient common areas, visitor's areas, and waiting rooms.

New [26 TAC Section 509.84](#) clarifies the required timeframes for submitting and correcting a written Plan of Correction to HHSC.

Note: [26 TAC Section 509.84\(a\)](#) clarifies that an FEMC facility is deemed to have received any HHSC correspondence on the date of receipt, or three business days after mailing, whichever is earlier.

New [26 TAC Section 509.85](#) clarifies HHSC reports any issue or complaint relating to the conduct of a licensed professional, intern, or applicant for professional licensure to the appropriate licensing board.

4.0 Resources

Review 26 TAC Chapter 509 at:

[texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=26&pt=1&ch=509](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=26&pt=1&ch=509).

Review SB 425 84th Legislature, Regular Session (2015) at:

capitol.texas.gov/tlodocs/84R/billtext/html/SB00425F.htm.

Review Texas Health and Safety Code (HSC) Chapter 241, Subchapter J at:

statutes.capitol.texas.gov/Docs/HS/htm/HS.241.htm#J.

Review HB 2041 86th Legislature, Regular Session (2019) at:

capitol.texas.gov/tlodocs/86R/billtext/html/HB02041F.htm.

Review HB 1112 86th Legislature, Regular Session (2019) at:

capitol.texas.gov/tlodocs/86R/billtext/html/HB01112F.htm.

Review HSC Chapter 254 at:

statutes.capitol.texas.gov/Docs/HS/htm/HS.254.htm.

Review SB 425 Author's/Sponsor's Statement of Intent at:
capitol.texas.gov/tlodocs/84R/analysis/html/SB00425F.htm.

Review HB 2041 Author's/Sponsor's Statement of Intent at:
capitol.texas.gov/tlodocs/86R/analysis/pdf/HB02041E.pdf.

Review HB 1112 Author's/Sponsor's Statement of Intent at:
capitol.texas.gov/tlodocs/86R/analysis/html/HB01112E.htm.

Review 25 TAC Chapter 131, Subchapters F and G at:
[texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=25&pt=1&ch=131](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=25&pt=1&ch=131).

Review HSC Chapter 324, Subchapter C at:
statutes.capitol.texas.gov/Docs/HS/htm/HS.324.htm#C.

To receive future updates, sign up for GovDelivery at:
service.govdelivery.com/accounts/TXHHSC/subscriber/new.

5.0 Contact Information

Email the Policies and Rules Unit at HCR_PRU@hhs.texas.gov if you have any questions about this letter.

Appendix A: Crosswalk between 25 TAC Chapter 131 and 26 TAC Chapter 509

Previous Rules effective until 12/3/2023 Title 25 Health Services Part 1 Department of Health Services Chapter 131 Freestanding Emergency Medical Care Facilities	Current Rules as of 12/4/2023 Title 26 Health and Human Services Part 1 Health and Human Services Commission Chapter 131 Freestanding Emergency Medical Care Facilities
Subchapter A General Provisions	Subchapter A General Provisions
Section 131.1 Purpose	Section 509.1 Purpose
Section 131.2 Definitions	Section 509.2 Definitions
Subchapter B Licensing Requirements	Subchapter B Licensing Requirements
Section 131.21 General	Section 509.21 General
Section 131.22 Classifications of Facilities	N/A ¹
Section 131.23 Exemptions from Licensure	Section 509.22 Exemptions from Licensure
Section 131.24 Unlicensed Facilities	Section 509.23 Unlicensed Facilities
Section 131.25 Application and Issuance of Initial License	Section 509.24 Application and Issuance of Initial License
Section 131.26 Application and Issuance of Renewal License	Section 509.25 Application and Issuance of Renewal License
Section 131.27 Inactive Status and Closure	Section 509.26 Inactive Status and Closure

¹ HHSC did not replace Section 131.21 in Chapter 509 because the content was outdated due to legislative changes.

Previous Rules effective until 12/3/2023 Title 25 Health Services Part 1 Department of Health Services Chapter 131 Freestanding Emergency Medical Care Facilities	Current Rules as of 12/4/2023 Title 26 Health and Human Services Part 1 Health and Human Services Commission Chapter 131 Freestanding Emergency Medical Care Facilities
Subchapter B Licensing Requirements (Cont.)	Subchapter B Licensing Requirements (Cont.)
Section 131.28 Change of Ownership	Section 509.27 Change of Ownership
Section 131.29 Conditions of Licensure	Section 509.28 Conditions of Licensure
Section 131.30 Time Periods for Processing and Issuing Licenses	Section 509.29 Time Periods for Processing and Issuing Licenses
Section 131.31 Fees	Section 509.30 Fees
Subchapter C Operational Requirements	Subchapter C Operational Requirements
Section 131.41 Operational Standards	Section 509.41 Operational Standards
N/A	Section 509.42 Governing Body Responsibilities ²
Section 131.42 Administration	Section 509.43 Administration
Section 131.43 Medical Director	Section 509.44 Medical Director
Section 131.44 Medical Staff	Section 509.45 Medical Staff
Section 131.45 Facility Staffing and Training	Section 509.46 Facility Staffing and Training

² This new section relocates content from previous Section 131.41(e).

<p>Previous Rules effective until 12/3/2023</p> <p>Title 25 Health Services</p> <p>Part 1 Department of Health Services</p> <p>Chapter 131 Freestanding Emergency Medical Care Facilities</p>	<p>Current Rules as of 12/4/2023</p> <p>Title 26 Health and Human Services</p> <p>Part 1 Health and Human Services Commission</p> <p>Chapter 131 Freestanding Emergency Medical Care Facilities</p>
<p>Subchapter C Operational Requirements (Cont.)</p>	<p>Subchapter C Operational Requirements (Cont.)</p>
<p>Section 131.46 Emergency Services</p>	<p>Section 509.47 Emergency Services</p>
<p>Section 131.47 Anesthesia</p>	<p>Section 509.48 Anesthesia</p>
<p>Section 131.48 Laboratory and Pathology Services</p>	<p>Section 509.49 Laboratory and Pathology Services</p>
<p>Section 131.49 Pharmaceutical Services</p>	<p>Section 509.50 Pharmaceutical Services</p>
<p>Section 131.50 Radiology</p>	<p>Section 509.51 Radiology</p>
<p>Section 131.51 Respiratory Services</p>	<p>Section 509.52 Respiratory Services</p>
<p>Section 131.52 Surgical Services within the Scope of the Practice of Emergency Medicine</p>	<p>Section 509.53 Surgical Services within the Scope of the Practice of Emergency Medicine</p>
<p>Section 131.53 Medical Records</p>	<p>Section 509.54 Medical Records</p>
<p>Section 131.54 Infection Control</p>	<p>Section 509.55 Infection Control</p>
<p>Section 131.55 Sanitary Conditions and Hygienic Practices</p>	<p>Section 509.56 Sanitary Conditions and Hygienic Practices</p>
<p>Section 131.56 Sterilization</p>	<p>Section 509.57 Sterilization</p>

Previous Rules effective until 12/3/2023 Title 25 Health Services Part 1 Department of Health Services Chapter 131 Freestanding Emergency Medical Care Facilities	Current Rules as of 12/4/2023 Title 26 Health and Human Services Part 1 Health and Human Services Commission Chapter 131 Freestanding Emergency Medical Care Facilities
Subchapter C Operational Requirements (Cont.)	Subchapter C Operational Requirements (Cont.)
Section 131.57 Linen and Laundry Services	Section 509.58 Linen and Laundry Services
Section 131.58 Waste and Waste Disposal	Section 509.59 Waste and Waste Disposal
Section 131.59 Patient Rights	Section 509.60 Patient Rights
Section 131.60 Abuse and Neglect	Section 509.61 Abuse and Neglect
Section 131.61 Reporting Requirements	Section 509.62 Reporting Requirements
Section 131.62 Complaints	Refer to Subchapter D, Section 510.83 Investigations
Section 131.63 Patient Safety Program	N/A ³
Section 131.64 Quality Assessment and Performance Improvement	Section 509.63 Quality Assessment and Performance Improvement
Section 131.65 Disaster Preparedness/Emergency and Contingency Planning	Section 509.64 Safety and Preparedness

³ HHSC did not replace Section 131.63 in Chapter 509 to keep consistency with the hospital and ambulatory surgical center (ASC) rules. The underlying legislation for hospitals and ASCs requiring a patient safety program expired on its own terms on 09/01/2007.

Previous Rules effective until 12/3/2023 Title 25 Health Services Part 1 Department of Health Services Chapter 131 Freestanding Emergency Medical Care Facilities	Current Rules as of 12/4/2023 Title 26 Health and Human Services Part 1 Health and Human Services Commission Chapter 131 Freestanding Emergency Medical Care Facilities
Subchapter C Operational Requirements (Cont.)	Subchapter C Operational Requirements (Cont.)
Section 131.66 Patient Transfer Policy	Section 509.65 Patient Transfer Policy
Section 131.67 Patient Transfer Agreements	Section 509.66 Patient Transfer Agreements
N/A	Section 509.67 Balance Billing
N/A	Section 509.68 Miscellaneous Policies and Protocols
N/A	Section 509.69 Fees and Prices
Section 131.68 Miscellaneous Policies and Protocol	Content Relocated to Section 509.42(21)
Subchapter D Inspection and Investigation Procedures	Subchapter D Inspection and Investigation Procedures

Previous Rules effective until 12/3/2023 Title 25 Health Services Part 1 Department of Health Services Chapter 131 Freestanding Emergency Medical Care Facilities	Current Rules as of 12/4/2023 Title 26 Health and Human Services Part 1 Health and Human Services Commission Chapter 131 Freestanding Emergency Medical Care Facilities
Section 131.81 Inspection and Investigation Procedures	Refer to New Separate Sections for Inspections (Section 509.82) and Investigations (Section 509.83)
N/A	Section 509.81 Integrity of Inspections and Investigations
N/A	Section 509.82 Inspections
N/A	Section 509.83 Investigations
N/A	Section 509.84 Notice
N/A	Section 509.85 Professional Conduct
Subchapter D Inspection and Investigation Procedures (Cont.)	Subchapter D Inspection and Investigation Procedures (Cont.)
Section 131.82 Complaint Against a Department Surveyor	Section 509.86 Complaint against an HHSC Representative
Subchapter E Enforcement	Subchapter E Enforcement
Section 131.101 Enforcement Actions	Section 509.101 Enforcement
Section 131.102 Denial of a License	Section 509.102 Denial of a License
Section 131.103 Suspension; Revocation	Section 509.103 Suspension; Revocation

Previous Rules effective until 12/3/2023 Title 25 Health Services Part 1 Department of Health Services Chapter 131 Freestanding Emergency Medical Care Facilities	Current Rules as of 12/4/2023 Title 26 Health and Human Services Part 1 Health and Human Services Commission Chapter 131 Freestanding Emergency Medical Care Facilities
Section 131.104 Emergency Suspension	Section 509.104 Emergency Suspension
Section 131.105 Probation	Section 509.105 Probation
Section 131.106 Injunction	Section 509.106 Injunction
Section 131.107 Criminal Penalty	N/A
Section 131.108 Administrative Penalty	Section 509.107 Administrative Penalty
Section 131.109 Payment and Collection of Administrative Penalty; Judicial Review	Section 509.108 Payment of Administrative Penalty; Judicial Review