

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 551 INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH AN
INTELLECTUAL DISABILITY OR RELATED CONDITIONS
SUBCHAPTER C STANDARDS FOR LICENSURE

EMERGENCY RULE ADOPTION PREAMBLE

The Executive Commissioner of the 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 or Related Conditions, new §551.48. HHSC is adopting this emergency rule to track vaccinations of staff and residents in long-term care facilities in Texas in response to COVID-19. As authorized by Texas Government Code, §2001.034, HHSC 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 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 proposal 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. 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 ICF/IID COVID-19 Response.

To protect individuals receiving ICF/IID services and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to require ICF/IID to report COVID-19 vaccinations of staff and individuals in ICF/IID and to require enrollment for the emergency communication system. The purpose of the rule is to describe the requirements related to such reporting and enrollment.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code, §§2001.034 and 531.0055, and Texas Health and Safety Code §§252.031, 252.032, 252.033 and 242.043. 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 §§252.031, 252.032, and 252.033 require the Executive Commissioner of HHSC to establish rules prescribing the minimum standards and process for licensure as an intermediate care facility. Texas Health and Safety Code §252.043 establishes HHSC's authority to conduct an inspection, survey or investigation at an intermediate care facility to determine if the intermediate care facility is in compliance with the minimum acceptable levels of care for individuals who are living in an intermediate care facility, and the minimum acceptable life safety code and physical environment requirements.

The new section implements Texas Government Code §531.0055 and §531.021 and Texas Human Resources Code §32.021.

The agency hereby certifies that the emergency adoption 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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§551.48. ICF/IID Provider COVID-19 Vaccination Data Reporting Requirement.

(a) An intermediate care facility administrator and one additional designee must enroll in an emergency communication system in accordance with instructions from the Texas Health and Human Services Commission (HHSC).

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

(c) Based on state law and federal guidance, HHSC finds COVID-19 to be a health and safety risk, therefore an intermediate care facility, within 24 hours of becoming aware of a staff or individual's COVID-19 vaccination, must accurately report COVID-19 vaccination data for staff and individuals in the format established by HHSC.

(d) Subsection (c) of this section does not apply to state supported living centers.