TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 570 LONG-TERM CARE PROVIDER RULES DURING A CONTAGIOUS DISEASE OUTBREAK, EPIDEMIC, OR PANDEMIC

SUBCHAPTER A INTRODUCTION

§570.1. Purpose and Application.

(a) For the purposes of this chapter, a facility includes:

(1) a prescribed pediatric extended care center (PPECC) licensed under Texas Administrative Code (TAC), Title 26, Chapter 550 (relating to Licensing Standards for Prescribed Pediatric Extended Care Centers);

(2) an intermediate care facility for individuals licensed under 26 TAC Chapter 551 (relating to Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions), or exempt from licensure under Texas Health and Safety Code §252.003;

(3) an assisted living facility licensed under 26 TAC Chapter 553 (relating to Licensing Standards for Assisted Living Facilities);

(4) a nursing facility licensed under 26 TAC Chapter 554 (relating to Nursing Facility Requirements for Licensure and Medicaid Certification);

(5) a home and community support services agency licensed under 26 TAC Chapter 558 (relating to Licensing Standards for Home and Community Support Services Agencies);

(6) a day activity and health services facility licensed under 26 TAC Chapter 559 (relating to Day Activity and Health Services Requirements);

(7) a home and community-based services program provider under 40 TAC Chapter 9 (relating to Intellectual Disability Services--Medicaid State Operating Agency Responsibilities); or

(8) a Texas Home Living program provider under 40 TAC Chapter 9.

(b) A facility must comply with this chapter, which becomes activated when there is an outbreak, epidemic, or pandemic among the staff or persons receiving services from the facility. A facility must develop all required policies and procedures, which must be implemented when the chapter is activated. Facilities must comply with guidance issued by the Centers for Disease Control and Prevention, Texas Health and Human Services Commission, or Texas Department of State Health Services related to the outbreak, epidemic, or pandemic.

(c) 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.

§570.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Airborne Precautions--Type of transmission-based precautions for persons known or suspected to be infected with pathogens transmitted by the airborne route. Airborne precautions are based on guidance issued by the CDC.

(2) Assisted Living Facility (ALF)--A facility licensed under Texas Health and Safety Code, Chapter 247.

(3) CDC--The Centers for Disease Control and Prevention.

(4) Center -A prescribed pediatric extended care center.

(5) Clergy--A person ordained for religious duty.

(6) Client--

(A) For a HCSSA, this term means:

(i) an individual receiving home health, hospice, or personal assistance services from a licensed HCSSA; and

(ii) the family of an individual receiving hospice services from a licensed HCSSA.

(B) For a DAHS, this term means an individual receiving care in the DAHS facility.

(7) Cohort--A group of persons placed in rooms, halls, or sections of a facility with others who have the same positive, negative, or unknown status for an infectious disease; or the act of grouping persons with other persons who have the same status for a contagious disease.

(8) Contact precautions--The type of transmission-based precautions used for clients, individuals, or residents with a known or suspected infection that represent an increased risk of direct or indirect transmission through direct or indirect contact. Contact precautions are based on guidance from the CDC.

(9) Contagious disease--A type of infectious disease that is transmissible by direct or indirect contact with an infected person or infected bodily discharges or by contact with a contaminated surface.

(10) Day activity and health services (DAHS)--A facility licensed under Texas Human Resources Code, Chapter 103.

(11) Disease causing agent--A virus, bacteria, fungi, protozoa, helminth, or prion, that causes an illness. Disease causing agents can lead to an outbreak, epidemic, or pandemic.

(12) Droplet precautions--A type of transmission-based precaution used for individuals or residents known or suspected to be infected with pathogens transmitted by respiratory droplets that are generated by an individual or resident when he or she is coughing, sneezing, or talking. Droplet precautions are based on guidance from the CDC.

(13) DSHS–Texas Department of State Health Services.

(14) End of life visit--A personal visit between a visitor and an individual or resident who is receiving hospice services; who is at or near end of life, with or without receiving hospice services, or whose prognosis does not indicate recovery.

(15) Epidemic--The occurrence of more cases of a disease or other health condition than expected in an area or among a specific group of persons during a time period. The cases are presumed to have a common cause or to be related to one another in some way.

(16) Essential caregiver--A family member, friend, guardian, volunteer, or other individual selected for in-person visits by an individual, an individual’s legally authorized representative, a resident, a resident’s guardian, or a resident’s legally authorized representative.

(17) Essential caregiver visit--A personal visit between an individual or resident and a designated essential caregiver.

(18) Family education visit--A visit between a family education visitor and a client who is in the hospice inpatient unit for an intensive stay for the purpose of hospice staff educating the visitor on proper equipment use or care of the client after discharge from the unit. This term applies to the HCSSA program only.

(19) Family education visitor--A person, who may or may not be an essential caregiver, designated by a client while the client is in the hospice inpatient unit for an intensive stay, to learn to provide regular care and support to the client and proper equipment use after discharge from the unit. This term applies to the HCSSA program only.

(20) HCS--Home and community-based services program.

(21) Home and community support services agency (HCSSA)--An agency licensed under Texas Health and Safety Code, Chapter 142, to provide health, hospice, or personal assistance services.

(22) Individual--A person enrolled in the ICF/IID program, Home and Community-based Services (HCS) program, or Texas Home Living (TxHmL) program. This term applies to the ICF/IID, HCS, and TxHmL programs only.

(23) Infectious disease--An illness caused by germs such as bacteria, viruses, parasites, or fungi that enter the body, multiply, and can cause an infection. Some infectious diseases are contagious, and some are non-contagious.

(24) Inspection, testing, and maintenance (ITM) services for compliance--Services required to comply with requirements for inspecting, testing, and maintenance of fire protection systems and emergency systems.

(25) Intermediate Care Facility for Individuals with an Intellectual Disability or Related Condition (ICF)--A facility licensed under Texas Health and Safety Code, Chapter 252, or exempt from licensure under Texas Health and Safety Code §252.003.

(26) IPC--Infection prevention and control.

(27) Isolation--The separation of infected persons from all other individuals, residents, or clients to prevent transmission of contagious diseases to other susceptible persons. Isolation refers to the separation of ill persons.

(28) Legally authorized representative (LAR)--A person authorized by law to act on behalf of an individual or resident with regard to a matter described by this chapter, and who may be the parent of a minor child, legal guardian, or surrogate decision maker.

(29) Maintenance and repair--Patching, restoration, painting, or routine maintenance, without intentionally strengthening or upgrading, materials, elements, equipment, or fixtures for the purpose of maintaining such materials, elements, equipment, or fixtures in good or sound condition.

(30) Minor--An individual younger than 21 years of age who is medically dependent or technologically dependent. This term applies to the PPECC program only.

(31) Negative status--A person who has tested negative for, is not exhibiting symptoms of, and has had no known exposure to the disease-causing agent.

(32) Nursing Facility (NF)--A facility licensed under Texas Health and Safety Code Chapter 242.

(33) Outbreak--The occurrence of more cases of a particular infection, disease, injury, or other health condition beyond what is usually expected in a given location, area, or time among facility staff or facility-acquired cases among individuals, residents or clients.

(34) Pandemic--An epidemic occurring over a widespread area (multiple countries or continents) and usually affecting a substantial proportion of the population.

(35) Personal protective equipment (PPE)--PPE includes specialized clothing, surgical masks, N95 respirators, face shields, goggles, gloves, disposable gowns, and other equipment worn for protection against transmission of infectious diseases.

(36) Persons providing critical assistance--Providers of essential services, clergy, family members, or friends of individuals or residents at the end of life, and designated essential caregivers.

(37) Persons with legal authority to enter--Law enforcement officers, representatives of the long-term care ombudsman’s office, representatives of the protection and advocacy system in the state for individuals with mental illness or individuals with intellectual or developmental disabilities, legal guardians, and government personnel performing their official duties.

(38) Positive status--The status of a person who has tested positive for a disease-causing agent and does not yet meet CDC guidance for the discontinuation of transmission-based precautions.

(39) Prescribed pediatric extended care centers (PPECC)--A center licensed under Texas Health and Safety Code, Chapter 248A.

(40) Program provider--A person that provides services in a residence through the HCS or TxHmL waiver programs.

(41) Providers of essential services--Physicians, nurses, mental health specialists, HCSSA staff, social workers, therapists, attendants, and volunteers in any of those roles; individuals operating under the authority of a local intellectual and developmental disability authority (LIDDA); a local mental health authority (LMHA); a local behavioral health authority; an HHSC whose services are necessary to ensure individual or resident health and safety; and persons performing maintenance and repair or ITM services for compliance.

(42) Quarantine--The separation of persons who have been exposed to, or are suspected to have been exposed to, a communicable disease, in order to monitor for illness and to reduce potential transmission of infection to susceptible persons during the incubation period. Quarantine refers to the separation of potentially exposed individuals from those who have not had a known exposure.

(43) Religious counselor--An individual acting substantially in a pastoral or religious capacity to provide spiritual counsel to other individuals.

(44) Residence means--

(A) A host home or companion care, three-person, or four-person residence, as defined by the HCS billing guidelines, unless otherwise specified. This definition only applies to the HCS program in Subchapter H of this chapter (relating to Home and Community-Based Services); or

(B) a private home, a nursing facility, an assisted living facility, an ICF/IID facility, or an unlicensed independent living environment. This definition only applies to the HCSSA program in Subchapter D of this chapter (relating to Home and Community Support Services Agencies).

(45) Resident--An individual admitted for care in a facility. This definition applies to the NF and ALF programs only.

(46) Salon services visit--A personal visit between a resident and a salon services visitor.

(47) Salon services visitor--A barber or cosmetologist providing hair care or personal grooming services to an individual or resident.

(48) Staff--Any employee, volunteer, or contractor of a facility, program provider, center, or HCSSA.

(49) Transmission-based precautions--The second tier of basic infection control to be used for persons who may be infected or colonized with certain infectious agents for which additional precautions are needed to prevent infection transmission. Types of transmission-based precautions include contact precautions, droplet precautions, and airborne precautions.

(50) TxHmL--Texas Home Living program.

(51) Unknown status--The status of a person who has not been determined to have a positive or negative status with the disease-causing agent.

(52) Virtual visit--A personal visit using technology such as a phone, tablet, or computer.

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 570 LONG-TERM CARE PROVIDER RULES DURING A CONTAGIOUS DISEASE OUTBREAK, EPIDEMIC, OR PANDEMIC

SUBCHAPTER B ASSISTED LIVING FACILITIES

§570.101. Emergency Response to Outbreak, Epidemic, or Pandemic.

(a) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, an assisted living facility must have a plan for regularly checking federal, state, and local guidance.

(b) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, an assisted living facility must:

(1) maintain infection control measures when:

(A) evacuation is necessary;

(B) sheltering in place is necessary; or

(C) receiving residents evacuating from another facility that has positive cases;

(2) have transportation agreements that include an assurance that the agreement will be honored if the evacuating facility has positive cases; and

(3) maintain a 90-day supply of personal protective equipment (PPE), including facemasks for droplet protection, N95 masks, goggles, face shields, gloves, and gowns and ensure they are readily available in the event of an evacuation. Each facility determines what a 90-day supply means based on the Centers for Disease Control and Prevention (CDC) burn rate methodology.

(c) An assisted living facility must have a protocol for receiving resident and facility deliveries from vendors, family members, and visitors. This protocol must comply with any CDC guidance in place.

(d) Each facility must have a communication plan to communicate the following information with residents, residents' representatives, and families:

(1) when a positive case is identified by the assisted living facility;

(2) current visitation and activities policies and procedures;

(3) alternate methods of visitation that will be available during times of restricted visitation by executive order or other direction issued by the Governor of Texas, the President of the United States, or another applicable authority; and

(4) identifying a primary point of contact at the assisted living facility for questions and information and how residents, residents’ representatives, and families can reach the primary point of contact.

(e) A facility must publicly post, at its physical location and on any Internet website, information required in subsection (d)(2) - (4) of this section.

(f) A facility must develop infection prevention and control policies and procedures that:

(1) ensure resident rights in each area of the facility, including the right to:

(A) be informed of their status;

(B) be informed of any symptoms or cases in the facility;

(C) personal visits, including virtual visits, based on their personal status and the facility’s status;

(D) refuse testing with an explanation of the necessary precautions for residents who refuse; and

(E) leave the facility, based on their personal status and applicable guidance from the CDC, Texas Health and Human Services Commission, or Texas Department of State Health Services.

(2) promotion of socialization and prevention of isolation, in accordance with CDC guidance, which must address:

(A) preventing unnecessary isolation or quarantine;

(B) ensuring that residents are not unnecessarily confined to their rooms;

(C) identifying and regularly facilitating activities that promote resident socialization in accordance with resident preferences; and

(D) preventing misuse of antipsychotic medications for residents experiencing negative psychological effects from infection prevention and control measures, including training for staff to identify environmental factors that cause psychological stress.

§570.103. Testing.

(a) During an outbreak, epidemic, or pandemic the program provider must have a testing strategy for all staff and individuals if required by the Centers for Disease Control and Prevention (CDC), Texas Health and Human Services Commission (HHSC), or Texas Department of State Health Services (DSHS).

(b) The facility must develop protocol based on HHSC, DSHS, and CDC guidance for residents and staff who refuse testing.

(c) A facility must:

(1) monitor residents and staff for signs and symptoms of the illness or disease that caused the outbreak, epidemic, or pandemic;

(2) monitor residents and staff for any possible exposure to the illness or disease that caused the outbreak, epidemic, or pandemic; and

(3) activate outbreak infection control measures if:

(A) a positive case of the illness or disease that caused the outbreak, epidemic, or pandemic is identified in a resident or staff;

(B) a resident or staff is exhibiting symptoms of the illness or disease that caused an outbreak, epidemic, or pandemic; and

(C) there is a suspected or known exposure of a resident or staff to a positive case of the illness or disease that caused an outbreak, epidemic, or pandemic.

§570.105. Reporting.

(a) A facility must report new positive cases of the illness or disease that caused the outbreak, epidemic, or pandemic that are identified to the Texas Health and Human Services Commission (HHSC) in accordance with any guidance issued by HHSC or the Texas Department of State Health Services.

(b) A facility must comply with a request from HHSC to submit data related to cases of the illness or disease that caused the outbreak, epidemic, or pandemic.

§570.107. Screening.

(a) A facility must screen all persons attempting to enter the building prior to allowing them to enter the facility, except emergency services personnel entering the facility or facility campus in an emergency.

(b) Persons who meet any of the following screening criteria must leave the facility:

(1) signs or symptoms specific to the illness or disease that caused an outbreak, epidemic, or pandemic; or

(2) testing positive indicative that the person is still in the infectious period of the illness or disease that caused the outbreak, epidemic, or pandemic.

(c) A facility must document, in writing, all persons who enter the building in a log kept at the entrance of the facility and include the date, the person’s name, current contact information, and data from the screening. The screening log might contain protected health information and must be protected in accordance with applicable state and federal law.

(d) A facility must screen all staff at the beginning of each shift for the criteria in subsection (b) of this section prior to allowing them to enter the facility.

(e) Staff who do not pass screening must leave the facility and not return until it is confirmed that they are not infectious or until they meet the criteria to discontinue quarantine or isolation.

(f) A facility must screen residents in accordance with any HHSC or DSHS guidance.

(g)Residents who do not pass screening must be quarantined or isolated, as appropriate, and monitored in accordance with Texas Health and Human Services Commission, Texas Department of State Health Services, and Centers for Disease Control and Prevention guidance.

(h) A facility must allow persons providing critical assistance, including essential caregivers, to enter the facility if they pass the screening criteria in subsection (b) of this section. A facility may not prohibit entry of persons with legal authority to enter when performing their official duties.

(i) A facility must post signage at all entrances of the facility prohibiting persons, other than emergency services personnel providing emergency services, from entering the facility prior to being screened.

§570.109. Staff Requirements.

(a) Each facility must ensure staffing levels are adequate to meet the needs of all residents, including those in isolation and quarantine.

(b) Each facility must have a staffing plan in place that:

(1) ensures staff in each area of the facility are trained to provide care to residents in their assigned area;

(2) ensures supervision of staff in each area of the facility; and

(3) includes a staffing contingency plan to ensure adequate staffing in the event multiple employees are out due to illness.

(c) Each facility must have at least one staff member responsible for infection control protocol.

(d) Each facility must document that training was provided to each staff member and that the training topics included:

(1) providing care to residents in isolation;

(2) providing care to residents in quarantine;

(3) proper use of personal protective equipment (PPE) that includes information on what to use in each area of the facility, what to use when providing care to residents with negative status, what to use when providing care to residents o with positive status, what to use when providing care to residents with unknown status and residents exhibiting symptoms awaiting tests;

(4) proper donning, doffing, and use of PPE;

(5) proper cleaning and disinfecting procedures;

(6) the facility’s infection control plan;

(7) the facility’s emergency preparedness plan;

(8) standard assessment protocols; and

(9) enhanced assessment protocols to be implemented when quarantine and isolation are necessary.

§570.111. Visitation.

(a) A facility’s visitation policies and procedures may change in response to a public health emergency and must conform to any directives issued by the Centers for Disease Control and Prevention (CDC), Texas Health and Human Services Commission (HHSC), or Texas Department of State Health Services (DSHS). Facility visitation policies and procedures may not be more restrictive than directives issued by the CDC, HHSC, or DSHS.

(b) A facility must permit clergy to visit a resident at the request of the resident.

(c) A facility may prohibit in-person visitation with a religious counselor during a public health emergency if a federal law or federal agency requires the facility to prohibit in-person visitation during that period.

(d) A facility may allow salon services visits. A facility must establish policies and procedures in response to an outbreak, epidemic, or pandemic, based on guidance issued by the CDC, HHSC, or DSHS that provide conditions for a salon visit to occur.

(e) A facility must permit end of life visits and immediately communicate any changes in a resident’s condition that would qualify the resident for end-of-life visits to the resident representative.

§570.113. Essential Caregiver Visits.

(a) A resident or the resident’s legally authorized representative has the right to designate an essential caregiver.

(b) A facility must permit essential caregiver visits.

(c) A facility must develop a visitation schedule that permits an essential caregiver to visit the resident for at least two hours each day.

(d) A facility must have procedures in place to enable physical contact between the resident and the essential caregiver.

(e) The facility must develop safety protocols for essential caregiver visits. The safety protocols may not be more stringent for essential caregivers than safety protocols for staff.

(f) A facility must obtain the signature of the essential caregiver certifying that the essential caregiver will follow the facility’s safety protocols for essential caregiver visits.

(g) A facility may revoke an essential caregiver designation if the caregiver violates the facility’s safety protocols or rules adopted under this chapter.

(h) If a facility revokes a person’s designation as an essential caregiver under subsection (g) of this section:

(1) the resident or the resident’s legally authorized representative has the right to immediately designate another person as the essential caregiver; and

(2) the facility must inform the resident or the resident’s legally authorized representative, in writing, of the right to an appeal the revocation and the procedures for filing an appeal with the Texas Health and Human Services Commission (HHSC) Appeals Division by:

(A) email at OCC\_Appeals\_ContestedCases@hhs.texas.gov; or

(B) mail at HHSC Appeals Division, P.O. Box 149030, MC W-613, Austin, TX 78714-9030.

(i) A facility may petition HHSC to suspend in-person essential caregiver visits for no more than seven calendar days if in-person visitation poses a serious health risk. A facility must request an extension from HHSC to suspend in-person essential caregiver visits for more than seven calendar days. HHSC may not approve an extension that exceeds seven calendar days.

(j) A facility may not suspend in-person essential caregiver visits in a calendar year for a time period that:

(1) is more than 14 consecutive days; or

(2) is more than a total of 45 days.

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 570 LONG-TERM CARE PROVIDER RULES DURING A CONTAGIOUS DISEASE OUTBREAK, EPIDEMIC, OR PANDEMIC

SUBCHAPTER C DAY ACTIVITY AND HEALTH SERVICES

§570.201. Emergency Response to Outbreak, Epidemic, or Pandemic.

(a) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a day activity and health services (DAHS) facility must have a plan for regularly checking federal, state, and local guidance related to the outbreak, epidemic, or pandemic.

(b) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a DAHS must:

(1) maintain infection control measures; and

(2) maintain an adequate supply of personal protective equipment (PPE), including facemasks for droplet protection, N95 masks, goggles, face shields, gloves, and gowns.

(c) A facility must have protocol for receiving client and facility deliveries from vendors, family members, and visitors. This protocol must comply with any Centers for Disease Control and Prevention (CDC) guidance put into place.

(d) Each facility must have a communication plan to communicate the following information with clients, clients’ representatives, and families:

(1) when a positive case is identified by the DAHS;

(2) current visitation and activities policies and procedures; and

(3) identifying a primary point of contact at the DAHS for questions and information and how clients, client’ representatives, and families can reach the primary point of contact.

§570.203. Monitoring.

A facility must:

(1) monitor clients and staff for signs and symptoms;

(2) monitor clients and staff for any possible exposure; and

(3) activate outbreak infection control measures if:

(A) a positive case is identified in a client or staff;

(B) a client or staff is exhibiting related symptoms; and

(C) there is a suspected or known exposure of a client or staff to a positive case.

§570.205. Reporting.

(a) A facility must report new positive cases in clients and staff to the Texas Health and Human Services commission (HHSC) in accordance with any guidance issued by HHSC or the Texas Department of State Health Services.

(b) A facility must comply with a request from HHSC to submit data related to cases.

§570.207. Screening.

(a) A facility must screen all visitors prior to allowing them to enter the facility, except emergency services personnel entering the facility or facility campus in an emergency.

(b) Visitors who meet any of the following screening criteria must leave the facility:

(1) signs or symptoms specific to the illness or disease that caused the outbreak, epidemic, or pandemic; and

(2) any other signs and symptoms as outlined by the Centers for Disease Control and Prevention.

(c) A facility must document, in writing, all persons who enter the building in a log kept at the entrance of the facility and include the date, the person’s name, current contact information, and data from the screening. The screening log may contain protected health information and must be protected in accordance with applicable state and federal law.

(d) A facility must screen all staff at the beginning of each shift prior to allowing them to enter the facility.

(e) Staff who do not pass screening must leave the facility.

(f) A facility must screen clients in accordance with any Texas Health and Human Services Commission or Texas Department of State Health Services guidance.

(g) Clients who do not pass screening must be kept in an isolated area until they leave the building.

(h) A facility must allow persons providing critical assistance to enter the facility if they pass the screening criteria in subsection (b) of this section. A facility may not prohibit entry of persons with legal authority to enter when performing their official duties.

(i) A facility must post signage at all entrances of the facility prohibiting persons from entering the facility prior to being screened.

§570.209. Staff Requirements.

(a) Each facility must have a staffing plan in place that includes a staffing contingency plan to ensure adequate staffing in the event multiple employees are out due to illness.

(b) Each facility must have at least one staff member responsible for infection control protocol.

(c) Each facility must document that training was provided to each staff member and that the training topics included:

(1) providing care to clients if they are required to isolate in an area of the facility while the client waits for transportation home;

(2) proper use of personal protective equipment (PPE) that includes information on what to use in each area of the facility, when providing care to clients with negative status, when providing care to clients with positive status, and when providing care to clients with unknown status and those exhibiting symptoms awaiting tests;

(3) proper donning, doffing, and use of PPE;

(4) proper cleaning and disinfecting procedures;

(5) the facility’s infection control plans;

(6) the facility’s emergency preparedness plans;

(7) standard assessment protocols; and

(8) enhanced assessment protocols to be implemented when a client who meets the screening criteria awaits transportation away from the facility.

§570.211. Visitation.

(a) A facility’s visitation policies and procedures may change in response to a public health emergency and must conform to any directives issued by the Centers for Disease Control and Prevention (CDC), Texas Health and Human Services Commission (HHSC), or Texas Department of State Health Services (DSHS). Facility visitation policies and procedures may not be more restrictive than directives issued by the CDC, HHSC, DSHS, or local orders.

(b) A facility must permit clergy to visit a resident at the request of the resident.

(c) A facility may prohibit in-person visitation with a religious counselor during a public health emergency if a federal law or federal agency requires the facility to prohibit in-person visitation during that period.

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 570 LONG-TERM CARE PROVIDER RULES DURING A CONTAGIOUS DISEASE OUTBREAK, EPIDEMIC, OR PANDEMIC

SUBCHAPTER D HOME AND COMMUNITY SUPPORT SERVICES AGENCIES

DIVISION 1 ALL HCSSAS EXCEPT HOSPICE INPATIENT UNITS

§570.301 Emergency Response to Outbreak, Epidemic, or Pandemic.

(a) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a home and community support services agency (HCSSA) must have a plan for regularly checking federal, state, and local guidance.

(b) During an outbreak, epidemic, or pandemic a HCSSA must maintain a 90-day supply of personal protective equipment (PPE), including surgical facemasks for droplet protection, N95 masks, goggles, face shields, gloves, and gowns. The 90-day supply is based on Centers for Disease Control and Prevention burn rate methodology.

(c) A HCSSA must provide appropriate PPE to its staff to use while providing services to agency clients.

(d) A HCSSA must ensure clients have appropriate PPE to use during the provision of services. A client’s care plan, plan of care, or individualized service plan must address the specific type of PPE to be provided to the client, based on infection control needs related to the services being provided.

(e) An agency must ensure staff conducting client services or entering a residence in a supervisory capacity are trained and knowledgeable about:

(1) the types of PPE that are appropriate for the services being provided;

(2) the proper use of PPE, including donning and doffing; and

(3) proper cleaning and disinfecting procedures.

(f) An agency with a service area that has multiple counties must ensure transmission-based precautions and surveillance are county-specific and based on conditions in the county where services are delivered.

(g) Agency staff have legal authority to enter a facility to provide services to the facility's residents who are agency clients. Agency staff entering a facility must follow the infection control protocols of the facility including testing requirements. Agency staff who are denied entry to a facility can report the denial to HHSC.

(h) Following a report made in accordance with subsection 570.305(a) of this chapter (relating to Reporting), an agency must document actions taken to ensure infection control among the agency’s clients and staff.

§570.302. Documentation of Physician’s or Practitioner’s Signatures.

During an outbreak, epidemic, or pandemic, an agency may be exempt from obtaining physician’s or practitioner’s signatures of verbal orders and plans of care. The agency must have documented evidence of coordination of care with the physician or practitioner.

§570.303. Testing.

During an outbreak, epidemic, or pandemic, a home and community support services agency must develop a testing strategy for staff and clients if required by the Centers for Disease Control and Prevention, Texas Health and Human Services Commission, or Texas Department of State Health Services.

§570.305. Reporting.

(a) An agency must maintain documentation of any cases reported under Texas Health and Safety Code, Chapter 81.

(b) An agency must comply with a request from the Texas Health and Human Services Commission to submit data related to positive cases of a communicable or infectious disease.

§570.307. Screening.

(a) An agency must document each required screening.

(b) An agency must screen its staff at the beginning of each workday or shift, and prior to the staff conducting a home visit or reporting to the agency’s place of business.

(c) Staff who do not pass screening are prohibited from:

(1) conducting home visits; and

(2) reporting to the agency’s place of business where the staff will interact with any other staff or the public.

(d) If an agency determines that a scheduled home visit is an essential visit in accordance with §570.311 of this division (relating to Determining Essential Visit) the agency must screen the client and household members present in the home at the time of the visit before conducting the home visit.

(e) If the client or a member of the householddoes not pass the screening, staff must use appropriate personal protective equipment during the visit. If the client and all members of the household pass the screening, staff must conduct the visit as indicated for the type of service provided.

§570.309. Staffing Requirements.

(a) Each agency must ensure staffing and backup services are adequate to meet the needs of all clients regardless of the clients’ infectious or communicable disease status, including those clients in isolation and quarantine.

(b) Each agency must have a staffing plan in place that:

(1) ensures staff are trained to provide care to a client based on the client’s and household members’ status of infectious or communicable disease;

(2) ensures supervision of staff relating to infection control protocols;

(3) includes a staffing contingency plan to mitigate staffing shortages in the event multiple staff are unable to work due to illness or quarantine requirements in relation to the outbreak, epidemic, or pandemic; and

(4) ensures, to the extent practicable, that staff are assigned to the same client cohorts and licensed facilities to effect transmission-based precautions for staff and clients.

(c) An agency licensed to provide personal assistance services must have a staff member responsible for coordinating infection control protocol who reports to the agency administrator and participates on the Quality Assessment and Performance Improvement (QAPI) committee.

(d) Except as provided for in subsection (e) of this section, an agency licensed to provide home health or hospice services must have a registered nurse responsible for coordinating infection control protocol who reports to the agency administrator and participates on the QAPI committee.

(e) An agency licensed to provide only physical, occupational, speech or respiratory therapy, medical social services, or nutritional counseling must have a staff member responsible for coordinating infection control protocol who reports to the agency administrator and participates on the QAPI committee.

§570.311. Determining Essential Visit.

(a) An essential visit is one that includes a service that must be delivered to ensure the client's health and safety, such as nursing services, therapies, medication administration, assisting with self-administered medications and other personal care tasks, wound care, transfer, or ambulation. Whether a visit qualifies as an essential visit is determined on a case-by-case basis and according to the client’s need for the service on the day of the scheduled visit in accordance with the plan of care, care plan, or individualized service plan (ISP).

(b) An agency must determine if a scheduled home visit is an essential visit.

(1) If the scheduled home visit is not an essential visit, the visit must be:

(A) conducted by phone or video conference, if possible; or

(B) rescheduled for a later date.

(2) If the scheduled visit is an essential visit, staff must conduct the visit in person and screen the client and household members in accordance with §570.307 of this division (relating to Screening).

(3) An agency must document any missed visits and notify the attending physician or practitioner, if applicable.

§570.313. Supervisory Visits by Telecommunication.

(a) A parent agency administrator or alternate administrator, or supervising nurse or alternate supervising nurse, may make the monthly supervisory visit required for branch supervision, or as required for the alternative delivery site, by virtual communication, such as video or telephone conferencing systems. An agency must document each supervisory visit conducted by virtual communication and the outcome of the visit.

(b) An agency may conduct required supervisory visits of staff by virtual communication, such as video or telephone conferencing systems. An agency must document each supervisory visit conducted by virtual communication and the outcome of the visit.

§570.315. Client Symptoms.

(a) If a home health or hospice client reports symptoms of a communicable or infectious disease that is associated with an outbreak, epidemic, or pandemic, the agency must coordinate care with the client’s attending physician or practitioner and amend the client’s plan of care or care plan as indicated.

(b) If a personal assistance services client reports symptoms of a communicable or infectious disease that is associated with an outbreak, epidemic, or pandemic, the agency must coordinate care by discussing with the client the importance of informing the client’s physician or practitioner of the symptoms. The agency may inform the client’s physician or practitioner with the client’s consent.

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 570 LONG-TERM CARE PROVIDER RULES DURING A CONTAGIOUS DISEASE OUTBREAK, EPIDEMIC, OR PANDEMIC

SUBCHAPTER D HOME AND COMMUNITY SUPPORT SERVICES AGENCIES

DIVISION 2 HOSPICE AGENCIES OPERATING AN IMPATIENT FACILITY

§570.317. Emergency Response to Outbreak, Epidemic, or Pandemic for Hospice inpatient unit.

(a) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a hospice agency operating a hospice inpatient unit must have a plan for regularly checking federal, state, and local guidance.

(b) During an outbreak, epidemic, or pandemic, a hospice agency operating an inpatient unit must maintain a 90-day supply of personal protective equipment (PPE), including surgical facemasks for aerosolized droplet protection, N95 respirators, goggles, face shields, gloves, and gowns as determined to be effective for transmission-based precautions by the Centers for Disease Control and Prevention (CDC) for the clients and residents. The 90-day supply is based on CDC burn rate methodology.

(c) A hospice agency operating an inpatient unit must provide appropriate PPE to its staff to use while providing services to agency clients.

(d) A hospice agency operating an inpatient unit must ensure clients have appropriate PPE to use during the provision of services. A client’s care plan or plan of care must address the specific type of PPE to be provided to the client, which is based upon infection control needs related to the services being provided.

(e) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a hospice inpatient unit must:

(1) maintain infection control measures when:

(A) evacuation is necessary;

(B) sheltering in place is necessary; or

(C) receiving residents evacuating from another hospice inpatient unit that has positive cases; and

(2) have transportation agreements that include an assurance that the agreement will be honored if the evacuating facility has positive cases.

(f) A hospice agency operating a hospice inpatient unit must have a communication plan to communicate the following information with clients, clients’ legally authorized representatives, and family members:

(1) when a positive case is identified;

(2) current visitation and activities policies and procedures;

(3) alternate methods of visitation that will be available during times of restricted visitation; and

(4) identifying a primary point of contact at the inpatient hospice for questions and information and how clients, clients’ legally authorized representatives, and families can reach the primary point of contact.

(g) A hospice agency operating a hospice inpatient unit must:

(1) develop and enforce family education visit policies and procedures that address the outbreak, epidemic, or pandemic that is occurring; and

(2) develop a written agreement between the hospice and the family education visitors that states that the family education visitors understand and agree to follow the applicable policies, procedures, and requirements.

(h) A hospice agency must:

(1) provide appropriate PPE to the family education visitor for use during the entirety of each family education visit, including provision of replacement PPE if the equipment becomes unusable or ineffective; and

(2) provide training for each family education visitor on proper PPE usage and infection control measures.

§570.318. Documentation of Physician’s or Practitioner’s Signatures.

During an outbreak, epidemic, or pandemic a hospice agency operating an inpatient hospice unit may be exempt from obtaining a physician’s or practitioner’s signatures of verbal orders and plans of care. The hospice agency must have documented evidence of coordination of care with the physician or practitioner.

§570.319. Testing.

(a) During an outbreak, epidemic, or pandemic, a hospice agency operating a hospice inpatient unit must develop a testing strategy for staff, and clients as applicable per guidance from the Centers for Disease Control and Prevention (CDC), Texas Health and Human Services Commission (HHSC), or Texas Department of State Health Services (DSHS). The hospice agency must ensure staff are tested or conduct testing if a test is available for the communicable or infectious disease.

(b) A hospice agency operating a hospice inpatient unit must develop protocol for clients and staff who refuse testing.

(c) A hospice agency operating a hospice inpatient unit must:

(1) monitor clients and staff for signs and symptoms related to the outbreak, epidemic, or pandemic;

(2) monitor clients and staff for any possible exposures; and

(3) activate outbreak infection control measures if:

(A) a positive case is identified in a client or staff;

(B) a client or staff is exhibiting symptoms related to the pandemic, outbreak, or epidemic; and

(C) there is a suspected or known exposure of a client or staff to a positive case.

§570.321. Reporting.

(a) A hospice agency operating a hospice inpatient unit must maintain documentation of cases reported in accordance with Texas Health and Safety Code, Chapter 81, and actions taken to ensure infection control among the agency’s clients and staff.

(b) A hospice agency operating a hospice inpatient unit must comply with a request from the Texas Health and Human Services Commission to submit data related to positive cases associated with the outbreak, epidemic, or pandemic.

§570.323. Screening.

(a) A hospice agency operating a hospice inpatient unit must screen all visitors prior to allowing them to enter the hospice inpatient unit, except emergency services personnel entering the hospice inpatient unit in an emergency.

(b) Visitors who meet any of the following screening criteria must leave the facility:

(1) signs or symptoms specific to the communicable or infectious disease that has caused the outbreak, epidemic, or pandemic; and

(2) any other signs and symptoms as outlined by the Centers for Disease Control and Prevention.

(c) A hospice agency operating a hospice inpatient unit must document, in writing, all persons who enter the unit in a log kept at the entrance of the unit and include the date, the person’s name, current contact information, and data from the screening results. The screening log may contain protected health information and must be protected in accordance with applicable state and federal law.

(d) A hospice agency operating a hospice inpatient unit must screen all staff at the beginning of each shift prior to allowing them to enter the unit.

(1) Staff who do not pass screening must not be allowed to enter or remain in the unit.

(2) Staff who do not pass screening must be monitored and tested, as applicable.

(e) A hospice agency operating a hospice inpatient unit must screen clients in accordance with applicable Texas Health and Human Services Commission or Texas Department of State Health Services guidance.

(f) Clients who do not pass screening must be quarantined and monitored.

(g) A hospice agency operating a hospice inpatient unit must allow persons providing critical assistance, including essential caregivers, to enter the unit if they pass the screening criteria in subsection (b) of this section. A hospice inpatient unit may not prohibit entry of persons with legal authority to enter when doing so to perform their official duties.

(h) A hospice agency operating a hospice inpatient unit must post signage at all entrances of the unit prohibiting persons from entering the unit prior to being screened.

§570.325. Staffing Requirements.

(a) Each hospice agency operating a hospice inpatient unit must ensure staffing levels are adequate to meet the needs of all clients, including those in isolation and quarantine.

(b) Each hospice agency operating a hospice inpatient unit must have a staffing plan in place that:

(1) ensures staff in each area of the unit are trained to provide care to clients in their assigned cohort area;

(2) ensures supervision of staff in each area of the unit;

(3) includes a staffing contingency plan to ensure adequate staffing in the event multiple employees are unable to work due to illness; and

(4) requires staff be assigned to client cohorts as necessary to ensure transmission-based precautions for clients in isolation and quarantine.

(c) Each hospice agency operating a hospice inpatient unit must ensure that the hospice inpatient unit infection control protocols are developed and reviewed by the infection control coordinator.

(d) Each hospice agency operating a hospice inpatient unit must document that training was provided to each staff member and that the training topics included:

(1) providing care to clients in isolation;

(2) providing care to clients in quarantine;

(3) proper use of personal protective equipment (PPE) that includes information on what to use in each area of the unit, when providing care to clients with negative status, when providing care to clients with positive status, and when providing care to clients with unknown status and clients exhibiting symptoms awaiting tests;

(4) proper donning, doffing, and use of PPE;

(5) proper cleaning and disinfecting procedures;

(6) the unit’s infection control plans;

(7) the unit’s emergency preparedness plans;

(8) standard assessment protocols; and

(9) enhanced assessment protocols to be implemented when quarantine or isolation are necessary.

§570.327. Visitation.

(a) A hospice agency operating a hospice inpatient unit’s visitation policies and procedures may change in response to a public health emergency and must conform to any directives issued by the Centers for Disease Control and Prevention (CDC), Texas Health and Human Services Commission (HHSC), or Texas Department of State Health Services (DSHS). Facility visitation policies and procedures may not be more restrictive than directives issued by the CDC, HHSC, or DSHS.

(b) A facility must permit clergy to visit a resident at the request of the resident.

(c) A facility may prohibit in-person visitation with a religious counselor during a public health emergency if a federal law or federal agency requires the facility to prohibit in-person visitation during that period.

(d) A facility may allow salon services visits. A facility must establish policies and procedures in response to an outbreak, epidemic, or pandemic, based on guidance issued by the CDC, HHSC, or DSHS that provide conditions for a salon visit to occur.

(e) A facility must permit end of life visits and immediately communicate any changes in a resident’s condition that would qualify the resident for end-of-life visits to the resident representative.

§570.328. Essential Caregiver Visits.

(a) A resident or the resident’s legally authorized representative has the right to designate an essential caregiver.

(b) A facility must permit essential caregiver visits.

(c) A facility must develop a visitation schedule that permits an essential caregiver to visit the resident for at least two hours each day.

(d) A facility must have procedures in place to enable physical contact between the resident and the essential caregiver.

(e) A facility must develop safety protocols for essential caregiver visits. The safety protocols may not be more stringent for essential caregivers than safety protocols for staff.

(f) A facility must obtain the signature of the essential caregiver certifying that the essential caregiver will follow the facility’s safety protocols for essential caregiver visits.

(g) A facility may revoke an essential caregiver designation if the caregiver violates the facility’s safety protocols or rules adopted under this chapter.

(h) If a facility revokes a person’s designation as an essential caregiver under subsection (g) of this section:

(1) the resident or the resident’s legally authorized representative has the right to immediately designate another person as the essential caregiver; and

(2) the facility must inform the resident or the resident’s legally authorized representative in writing of the right to an appeal the revocation and the with the Texas Health and Human Services Commission (HHSC) Appeals Division by:

(A) email at OCC\_Appeals\_ContestedCases@hhs.texas.gov; or

(B) mail at HHSC Appeals Division, P.O. Box 149030, MC W-613, Austin, TX 78714-9030.

(i) A facility may petition HHSC to suspend in-person essential caregiver visits for no more than seven calendar days if in-person visitation poses a serious health risk. A facility must request an extension from HHSC to suspend in-person essential caregiver visits for more than seven calendar days. HHSC may not approve an extension that exceeds seven calendar days.

(j) A facility may not suspend in-person essential caregiver visits in a calendar year for a time period that:

(1) is more than 14 consecutive days; or

(2) is more than a total of 45 days.

§570.329. Temporary Partial or Full Closure to Allow for Space to Be Used to Treat Non-Hospice Clients in an Emergency.

(a) A hospice agency operating an inpatient unit may temporarily fully or partially close to allow space to be used by a hospital for overflow services provided to infectious patients who are not hospice clients.

(b) The hospice agency must notify the HHSC Regional Office of its plans for partial or full closure and plans to reclaim the space.

(c) The hospice agency must not provide services to non-hospice clients in the shared space.

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 570 LONG-TERM CARE PROVIDER RULES DURING A CONTAGIOUS DISEASE OUTBREAK, EPIDEMIC, OR PANDEMIC

SUBCHAPTER E PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS

§570.401. Emergency Response to Outbreak, Epidemic, or Pandemic.

(a) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a center must have a plan for regularly checking federal, state, and local guidance.

(b) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a center must:

(1) maintain infection control measures; and

(2) maintain an adequate supply of personal protective equipment (PPE), including facemasks for droplet protection, N95 masks, goggles, face shields, gloves, and gowns.

(c) A center must have protocol for receiving facility deliveries from vendors, family members, and visitors. This protocol must comply with any applicable Centers for Disease Control and Prevention guidance.

(d) Each center must have a communication plan to communicate the following information with minors, minors’ representatives, and families:

(1) when a positive case is identified by the center;

(2) current visitation and activities policies and procedures; and

(3) identifying a primary point of contact at the center for questions and information and how minors, minor representatives, and families can reach the primary point of contact.

§570.403. Testing.

(a) During an outbreak, epidemic, or pandemic, a center must conduct routine testing of all staff and minors per guidance from the Texas Health and Human Services Commission or Texas Department of State Health Services.

(b) The center must develop protocol for minors and staff who refuse testing.

(c) The center must:

(1) monitor minors and staff for signs and symptoms;

(2) monitor minors and staff for any possible exposure; and

(3) activate outbreak infection control measures if:

(A) a positive case is identified in a minor or staff;

(B) a minor or staff is exhibiting related symptoms; and

(C) there is a suspected or known exposure of a minor or staff to a positive case.

§570.405. Reporting.

(a) A center must report new positive cases that are identified in minors and staff to the Texas Health and Human Services Commission (HHSC) in accordance with any guidance issued by HHSC or the Texas Department of State Health Services.

(b) A center must comply with a request from HHSC to submit data related to cases.

§570.407. Screening.

(a) A center must screen all visitors prior to allowing them to enter the center, except emergency services personnel entering the center in an emergency.

(b) Visitors who meet any of the following screening criteria must leave the center

(1) signs or symptoms specific to the illness or disease that caused the outbreak, epidemic, or pandemic; or

(2) any other signs and symptoms as outlined by the Centers for Disease Control and Prevention.

(c) A center must document, in writing, all persons who enter the building in a log kept at the entrance of the center and include the date, the person’s name, current contact information, and data from the screening. The screening log may contain protected health information and must be protected in accordance with applicable state and federal law.

(d) A center must screen all staff at the beginning of each shift prior to their entering the center.

(e) Staff who do not pass screening must be sent home for monitoring and testing.

(f) A center must screen minors in accordance with applicable Texas Health and Human Services Commission or Texas Department of State Health Services guidance.

(g) Minors who do not pass screening must be isolated until they can leave the center.

(h) A center must allow persons providing critical assistance to enter the center if they pass the screening criteria in subsection (b) of this section. A center may not prohibit entry of persons with legal authority to enter when performing their official duties.

(i) A center must post signage at all entrances of the center prohibiting persons from entering the center prior to being screened.

§570.409. Staff Requirements.

(a) Each center must have a staffing plan in place that includes a staffing contingency plan to ensure adequate staffing in the event multiple employees are out due to illness.

(b) Each center must have at least one staff member responsible for infection control protocol.

(c) Each center must document that training was provided to each staff member and that the training topics included:

(1) isolation protocols for minors who begin to show signs and symptoms while at the center;

(2) proper use of personal protective equipment (PPE) that includes information on what to wear when providing care to minors based on what services or care are being provided;

(3) proper donning, doffing, and use of PPE;

(4) proper cleaning and disinfecting procedures;

(5) the center’s infection control plans;

(6) the center’s emergency preparedness plans;

(7) standard assessment protocols; and

(8) enhanced assessment protocols to be implemented when isolation of a minor is necessary.

§570.411. Visitation.

(a) A center’s visitation policies and procedures may change in response to a public health emergency and must conform to any directives issued by the Centers for Disease Control and Prevention (CDC), Texas Health and Human Services Commission (HHSC), or Texas Department of State Health Services (DSHS). Center visitation policies and procedures may not be more restrictive than directives issued by the CDC, HHSC, DSHS, or local orders.

(b) A center must permit clergy to visit a minor at the request of the minor.

(c) A center may prohibit in-person visitation with a religious counselor during a public health emergency if a federal law or federal agency requires the facility to prohibit in-person visitation during that period.

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 570 LONG-TERM CARE PROVIDER RULES DURING A CONTAGIOUS DISEASE OUTBREAK, EPIDEMIC, OR PANDEMIC

SUBCHAPTER F NURSING FACILITIES

§570.501. Planning for Outbreak, Epidemic, or Pandemic.

(a) A facility must ensure the infection prevention and control program required by §554.1601(b) of this title (relating to Infection Control) includes information specific to emerging contagious diseases, epidemics, and pandemics, including:

(1) preparation, which must address:

(A) obtaining and maintaining a minimum of two weeks of personal protective equipment (PPE), including surgical face masks for droplet protection, N95 respirators, goggles or face shields, gloves, and gowns;

(B) training staff on infection control plans;

(C) providing more staff in times of outbreak; and

(D) dedicating staff for various resident populations: residents with positive status, residents with negative status, and residents with unknown status;

(2) staff training, which must address:

(A) which PPE is appropriate for use in each area of a facility and by staff when providing care to residents with positive status, residents with negative status, and residents with unknown status;

(B) donning, doffing, and use of PPE;

(C) cleaning and disinfecting policies and procedures; and

(D) contingency plans for staffing shortages due to employee illness;

(3) rapid detection, which must address:

(A) screening and monitoring;

(B) testing; and

(C) contact tracing;

(4) mitigation, which must address:

(A) isolation plans for residents with new cases of the contagious disease, including designated cohorting areas;

(B) quarantine plans for residents with unknown status, including designated cohorting areas, according to Centers for Disease Control and Prevention (CDC) guidance;

(C) designated staff assigned to work with each cohort whose designation does not change from one day to another, unless required to maintain adequate staffing for a cohort;

(D) increased staffing for quarantine and isolation groups; and

(E) plans related to staff working at multiple facilities;

(5) PPE, which must address:

(A) maintaining a 90-day supply of all CDC-recommended PPE including the PPE required by subparagraph (a)(1)(A) of this section and any other PPE recommended by the CDC for a specific disease or disease-causing agent;

(B) the facility’s burn rate methodology used to calculate how much PPE is needed for 90 days; and

(C) who to contact if supplies are needed or difficult to obtain, including contact information;

(6) cleaning and disinfecting, which must address:

(A) janitorial staff;

(B) cleaning and disinfecting procedures for:

(i) each area in the facility;

(ii) each type of surface;

(iii) equipment that must be used for more than one resident;

(iv) laundry; and

(C) deep cleaning, to include increased frequency for all housekeeping activities.

(b) A facility must develop infection prevention and control policies and procedures, which include:

(1) testing in accordance with applicable Texas Health and Human Services Commission (HHSC), Texas Department of State Health Services (DSHS), and CDC guidance, which must address:

(A) routine testing of all staff;

(B) testing of residents and staff during an outbreak in the facility;

(C) testing of residents and staff with signs and symptoms of infection; and

(D) protocols for residents and staff who refuse testing.

(2) Ensuring a resident’s rights in each area of a facility, including:

(A) the right to be informed of his or her contagious disease status;

(B) the right to be informed of any symptoms or cases of the contagious disease in the facility;

(C) the right to personal visits, including virtual visits, based on the resident’s contagious disease status and guidance from CDC, Centers for Medicare and Medicaid Services (CMS), HHSC, or DSHS;

(D) the right for married residents to choose not to physically distance from their spouse, if both spouses consent;

(E) the right to refuse testing with an explanation of the necessary precautions for residents who refuse; and

(F) the right of residents to leave the facility.

(3) Promotion of socialization and prevention of isolation, in accordance with CDC guidance, which must address:

(A) preventing unnecessary isolation or quarantine;

(B) ensuring that residents are not unnecessarily confined to their rooms;

(C) identifying and regularly facilitating activities that promote resident socialization in accordance with resident preferences; and

(D) preventing misuse of antipsychotic medications for residents experiencing negative psychological effects from infection prevention and control measures, including training for staff to identify environmental factors that cause psychological stress.

(c) A facility must ensure that emergency preparedness plans required by §554.1914 of this title (relating to Emergency Preparedness and Response) address emerging contagious diseases, epidemics, and pandemics including:

(1) maintaining infection control measures if evacuation is necessary;

(2) maintaining infection control measures if sheltering in place is necessary;

(3) ensuring transportation contracts will be honored if the evacuating facility has residents exhibiting signs and symptoms of a contagious disease;

(4) ensuring contracts or agreements with receiving facilities will be honored if the evacuating facility has residents exhibiting signs and symptoms of a contagious disease;

(5) maintaining infection control measures when the facility is contracted or agrees to receive evacuating residents; and

(6) ensuring the PPE supplies recommended by the CDC, including face masks for droplet protection, N95 respirators, goggles or face shields, gloves, and gowns, are maintained and available if evacuation is necessary.

§570.503. Emergency Response to Outbreak, Epidemic, or Pandemic.

(a) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a nursing facility must have a plan for regularly monitoring for and checking federal, state, and local guidance related to the outbreak, epidemic, or pandemic.

(b) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a nursing facility must:

(1) maintain infection prevention and control measures if evacuation is necessary;

(2) maintain infection prevention and control measures if sheltering in place is necessary;

(3) ensure transportation contracts will be honored if the evacuating facility has residents exhibiting signs and symptoms of a contagious disease;

(4) ensure contracts or agreements with receiving facilities will be honored if the evacuating facility has residents exhibiting signs and symptoms of a contagious disease;

(5) maintain infection prevention and control measures if acting as a receiving facility for residents evacuating from other facilities; and

(6) ensure personal protective equipment (PPE) supplies recommended by the Centers for Disease Control and Prevention, including face masks for droplet protection, N95 respirators, goggles, face shields, gloves, and gowns are maintained and available if evacuation is necessary.

(c) A facility must put a protocol in place for receiving resident deliveries from vendors, family members, and visitors. This protocol must conform to any pertinent CDC guidance while maintaining a resident’s right to receive deliveries, including the right to unopened mail.

(d) Each facility must develop and implement a communication plan to communicate the following information to current and prospective residents, residents’ representatives, each resident’s designated emergency contact, families, and all facility staff:

(1) when a resident or staff member with a positive case of the contagious disease is identified by the facility;

(2) infection control policies, including cohorting and quarantine protocols;

(3) current visitation and activities policies and procedures; and

(4) alternate methods of visitation that will be available during times of restricted visitation.

(e) A facility must have a plan to address how the facility will communicate with residents, residents’ representatives, and families. The plan must also include:

(1) frequency of communications when there is an outbreak;

(2) the primary point of contact at the facility for questions and information;

(3) how residents, resident representatives, and families can contact the primary point of contact; and

(4) the method of communication a facility will use to communicate changes in visitation policies at the facility.

§570.505. Testing.

(a) During an outbreak, epidemic, or pandemic, a nursing facility must conduct routine testing of all staff and residents for the disease causing the outbreak, epidemic, or pandemic in accordance with guidance issued by the Centers for Medicare and Medicaid Services, Centers for Disease Control and Prevention, Texas Health and Human Services Commission, or Texas Department of State Health Services.

(b) During an outbreak, the facility must test all residents and staff with signs and symptoms of the illness.

(c) The facility must develop and implement protocols for residents and staff who refuse testing.

(d) A facility must:

(1) monitor residents and staff for signs and symptoms of the disease causing the outbreak, epidemic, or pandemic;

(2) monitor residents and staff for any possible exposures to the disease causing the outbreak, epidemic, or pandemic; and

(3) activate the infection prevention and control program specific to emerging contagious diseases, epidemics, and pandemics required by §570.501 of this subchapter (relating to Planning for Outbreak, Epidemic, or Pandemic) if:

(A) a positive case of the disease causing the outbreak, epidemic, or pandemic is identified in a resident or staff;

(B) a resident or staff is exhibiting symptoms of the disease causing the outbreak, epidemic, or pandemic; and

(C) there is a suspected or known exposure of a resident or staff to a person with a positive case of the disease causing the outbreak, epidemic, or pandemic.

§570.507. Reporting.

(a) A facility must report to the Texas Health and Human Services Commission (HHSC) new positive cases of the contagious disease that are identified in accordance with guidance issued by the Centers for Medicare and Medicaid Services, HHSC, or the Texas Department of State Health Services.

(b) A facility must comply with a request from HHSC to submit data related to cases of the contagious disease in the facility.

(c) A facility must inform residents, resident representatives, and the families of residents by 5 p.m. the next calendar day following the occurrence of a positive case of the contagious disease among residents or staff. The facility must not include personally identifiable information in such information.

§570.509. Screening.

(a) During an outbreak, epidemic, or pandemic, a nursing facility must screen all visitors prior to allowing them to enter the facility, 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.

(b) Visitors who meet any of the following screening criteria must leave the nursing facility campus:

(1) signs or symptoms specific to the illness or disease that has caused an outbreak, epidemic, or pandemic;

(2) any other signs and symptoms as outlined by the Centers for Disease Control and Prevention (CDC); or

(3) testing positive indicative that the visitor is still in the infectious period related to the outbreak, epidemic, or pandemic.

(c) A nursing facility must screen all staff at the beginning of each shift for the criteria in subsection (b) of this section prior to allowing them to enter the facility.

(d) Staff who do not pass screening must immediately leave the facility and not return until it is confirmed that they are not infectious or until they meet the criteria to discontinue quarantine or isolation.

(e) During an outbreak, epidemic, or pandemic, a nursing facility must screen residents at least once per day for the criteria in subsection (a) of this section. Residents who do not pass screening must be quarantined immediately, monitored, and tested according to any guidance issued by the CDC, Texas Health and Human Services Commission, or Texas Department of State Health Services. A resident has the right to refuse testing.

(f) A facility must allow persons providing critical assistance, including essential caregivers, to enter the facility if they pass the screening criteria in subsection (b) of this section.

(g) A nursing facility may not prohibit entry of persons with legal authority to enter when performing their official duties, unless they do not pass the screening in subsection (b) of this section.

§570.511. Staff Requirements.

(a) A facility must ensure staffing levels are adequate to meet the needs of all residents, including those in isolation and quarantine.

(b) A facility must have a staffing plan in place that:

(1) ensures staff are designated to each area of the facility;

(2) ensures staff in each area of the facility are trained to provide care to residents in their assigned area;

(3) ensures supervision of staff in each area of the facility;

(4) during an outbreak, epidemic, or pandemic, ensures staff who work in multiple facilities are assigned to the same cohort in each facility they work in; and

(5) includes a staffing contingency plan to ensure adequate staffing in the event multiple staff are out due to illness.

(c) During an outbreak, epidemic, or pandemic, a facility must employ at least one full-time infection preventionist.

(d) A facility must provide training to each staff member and document the training. The training must include:

(1) providing care to residents in isolation;

(2) providing care to residents in quarantine;

(3) proper use of personal protective equipment (PPE) including appropriate PPE use for:

(A) each area of the facility;

(B) providing care to residents who are negative status, positive status, or unknown status; and

(C) providing care to residents exhibiting symptoms and awaiting test results;

(4) proper donning, doffing, and use of PPE;

(5) proper cleaning and disinfecting procedures;

(6) the facility’s infection control plans;

(7) the facility’s emergency preparedness plans;

(8) standard assessment protocols; and

(9) enhanced assessment protocols to be implemented when quarantine or isolation are necessary.

§570.513. Visitation.

(a) A facility’s visitation policies and procedures may change in response to a public health emergency and must conform to any directives issued by the Centers for Medicare and Medicaid Services (CMS), Texas Health and Human Services Commission (HHSC), or Texas Department of State Health Services (DSHS). Facility visitation policies and procedures may not be more restrictive than directives issued by CMS, HHSC, DSHS, or local orders.

(b) A facility must permit clergy to visit a resident at the request of the resident.

(c) A facility may prohibit in-person visitation with a religious counselor during a public health emergency if a federal law or federal agency requires the facility to prohibit in-person visitation during that period.

(d) A facility may allow salon services visits. A facility must establish policies and procedures in response to an outbreak, epidemic, or pandemic, based on guidance issued by CDC, CMS, HHSC, or DSHS, that provide conditions for a salon visit to occur.

(e) A facility must permit end of life visits and immediately communicate any changes in a resident’s condition that would qualify the resident for end-of-life visits to the resident representative.

§570.514. Essential Caregiver Visits.

(a) A resident or the resident’s legally authorized representative has the right to designate an essential caregiver.

(b) A facility must permit essential caregiver visits.

(c) A facility must develop a visitation schedule that permits an essential caregiver to visit the resident for at least two hours each day.

(d) A facility must have procedures in place to enable physical contact between the resident and the essential caregiver.

(e) The facility must develop safety protocols for essential caregiver visits. The safety protocols may not be more stringent for essential caregivers than safety protocols for staff.

(f) A facility must obtain the signature of the essential caregiver certifying that the essential caregiver will follow the facility’s safety protocols for essential caregiver visits.

(g) A facility may revoke an essential caregiver designation if the caregiver violates the facility’s safety protocols or rules adopted under this chapter.

(h) If a facility revokes a person’s designation as an essential caregiver under subsection (g) of this section:

(1) the resident or the resident’s legally authorized representative has the right to immediately designate another person as the essential caregiver; and

(2) the facility must inform the resident or the resident’s legally authorized representative in writing of the right to an appeal the revocation and the procedures for filing an appeal with the Texas Health and Human Services Commission (HHSC) Appeals Division by:

(A) email at OCC\_Appeals\_ContestedCases@hhs.texas.gov; or

(B) mail at HHSC Appeals Division, P.O. Box 149030, MC W-613, Austin, TX 78714-9030.

(i) A facility may petition HHSC to suspend in-person essential caregiver visits for no more than seven calendar days if in-person visitation poses a serious health risk. A facility must request an extension from HHSC to suspend in-person essential caregiver visits for more than seven calendar days. HHSC may not approve an extension that exceeds seven calendar days.

(j) A facility may not suspend in-person essential caregiver visits in a calendar year for a time period that:

(1) is more than 14 consecutive days; or

(2) is more than a total of 45 days.

§570.515. Resident Assessment.

(a) During a contagious disease outbreak, epidemic, or pandemic, a facility must continue to conduct resident assessments according to §554.801 of this title (relating to Resident Assessment).

(1) The frequency of resident assessments required by paragraph (a) of this section must increase when a positive case of the contagious disease in a resident or staff is identified in the facility.

(2) An assessment required by paragraph (a) of this section must address a resident’s physical, mental, and psychosocial health and needs during the contagious disease outbreak, epidemic, or pandemic.

(b) A facility must update the baseline care plan for a resident according to §554.802 of this title (relating to Comprehensive Person-Centered Care Planning).

(1) The updated care plan must address a resident’s physical, mental and psychosocial needs.

(2) The updated care plan must address both virtual visitation and in-person visitation, including frequency of such visits, based on the resident’s assessment required by paragraph (a) of this section, and according to §554.413 of this title (relating to Access and Visitation Rights).

§507.517. Continuity of Facility Operations.

(a) A facility must have policies and procedures to accomplish the following:

(1) designating an isolation area for residents with a contagious disease;

(2) designating a quarantine area for residents with unknown status;

(3) designation an area for residents who do not require isolation or quarantine;

(4) designating an area for the storage of personal protective equipment (PPE), an area for donning PPE, and an area for doffing PPE;

(5) implementing infection prevention and control for shared spaces in areas of a facility that do not include a separate nursing service area, including a nurses’ station, a staff lounge area and restroom, lockers or security compartments for the safekeeping of the personal effects of staff, a clean utility room, and a soiled utility room;

(6) ensuring enough space for physical distancing needs related to the outbreak, epidemic, or pandemic; and

(7) designating entrances and exits for each area, as well as travel routes to minimize spread of contagious diseases.

(b) If a facility identifies an outbreak of a contagious disease, epidemic, or pandemic, it must take the following precautions for communal dining.

(1) If staff assistance is required during dining, a facility must ensure staff use appropriate PPE and hand hygiene between assisting each resident.

(2) A facility must ensure cleaning and disinfection of all surfaces, furniture, and items that might be used by more than one person between every use of the communal dining area, according to Centers for Disease Control and Prevention guidance.

(3) A facility must limit participation in communal dining to residents who do not have an active infection or who are not in quarantine.

(4) A facility must ensure furniture and seating are arranged to maintain a physical distance as needed related to the outbreak, epidemic, or pandemic. A facility must take into consideration preferences for married residents, who may choose not to physically distance.

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 570 LONG-TERM CARE PROVIDER RULES DURING A CONTAGIOUS DISEASE OUTBREAK, EPIDEMIC, OR PANDEMIC

SUBCHAPTER G INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY OR RELATED CONDITIONS

§570.601. Emergency Response to Outbreak, Epidemic, or Pandemic.

(a) This subchapter applies to an intermediate care facility for individuals licensed under Chapter 551 of this title (relating to Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions) or exempt from licensure under Texas Health and Safety Code §252.003.

(b) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, an intermediate care facility must have a plan for regularly checking federal, state, and local guidance.

(c) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, an intermediate care facility must:

(1) maintain infection control measures when:

(A) evacuation is necessary;

(B) sheltering in place is necessary; or

(C) receiving individuals evacuating from another facility that has positive cases;

(2) have a transportation plan;

(3) maintain a 90-day supply of personal protective equipment (PPE), including facemasks for droplet protection, N95 masks, goggles, face shields, gloves, and gowns. Each facility determines what a 90-day supply is based on Centers for Disease Control and Prevention burn rate methodology; and

(4) ensure PPE for staff and individuals is available in the event of an evacuation.

(d) An intermediate care facility must have protocol for receiving facility deliveries.

(e) An intermediate care facility must have a communication plan to communicate the following information with individuals, an individuals’ representatives, and families:

(1) when a positive case is identified by the facility;

(2) current visitation and activities policies and procedures;

(3) alternate methods of visitation that will be available during times of restricted visitation; and

(4) identifying a primary point of contact at the facility for questions and information and how individuals, an individuals’ representatives, and families can reach the primary point of contact.

§570.603. Testing.

(a) During an outbreak, epidemic, or pandemic the intermediate care facility must have a testing strategy for all staff and individuals if required by the Centers for Disease Control and Prevention, Texas Health and Human Services Commission, or Texas Department of State Health Services.

(b) The facility must develop protocol for individuals and staff who refuse testing.

(c) A facility must:

(1) monitor individuals and staff for signs and symptoms;

(2) monitor individuals and staff for any possible exposures; and

(3) activate outbreak infection control measures if:

(A) a positive case is identified in an individual or staff;

(B) an individual or staff is exhibiting related symptoms; and

(C) there is a suspected or known exposure of an individual or staff to a positive case.

§570.605. Reporting.

(a) A facility must report new positive cases that are identified to the Texas Department Health and Human Services Commission (HHSC) in accordance with any guidance issued by HHSC or the Texas Department of State Health Services.

(b) A facility must comply with a request from HHSC to submit data related to cases.

§570.607. Screening.

(a) A facility must screen all visitors prior to allowing them to enter the facility, except emergency services personnel entering the facility or facility campus in an emergency.

(b) Visitors who exhibit any of the following screening criteria must leave the facility:

(1) signs or symptoms specific to the illness or disease that has caused an outbreak, epidemic, or pandemic; or

(2) any other signs and symptoms as outlined by the Centers for Disease Control and Prevention.

(c) A facility must document, in writing, all persons who enter the building in a log kept at the entrance of the facility and include the date, the person’s name, current contact information, and data from the screening. The screening log may contain protected health information and must be protected in accordance with applicable state and federal law.

(d) A facility must screen all staff at the beginning of each shift prior to allowing them to enter the facility.

(e) Staff who do not pass screening must leave the facility.

(f) A facility must screen individuals in accordance with guidance from the Texas Health and Human Services Commission or Texas Department of State Health Services.

(g) Individuals who do not pass screening or refuse to be screened must be quarantined and monitored.

(h) A facility must allow persons providing critical assistance to enter the facility, including essential caregivers, if they pass the screening criteria in subsection (b) of this section. A facility may not prohibit entry of persons with legal authority to enter when performing their official duties.

(i) A facility must post signage at all entrances of the facility reminding individuals not to enter the facility prior to being screened.

§570.609. Staff Requirements.

(a) Each facility must ensure staffing levels are adequate to meet the needs of all individuals, including those in isolation and quarantine.

(b) Each facility must have a staffing plan in place that:

(1) ensures staff are trained to provide care to individuals in their assigned cohort;

(2) ensures supervision of staff in each cohort of the facility; and

(3) includes a staffing contingency plan to ensure adequate staffing in the event multiple employees are out due to illness.

(c) Each facility must have at least one staff member responsible for coordinating infection control protocol.

(d) Each facility must document that training was provided to each staff member and the training topics included:

(1) providing care to individuals in isolation;

(2) providing care to individuals in quarantine;

(3) proper use of personal protective equipment (PPE) that includes information on what to use in each area of the facility, what to use when providing care to individuals who are negative, what to use when providing care to individuals who are positive, what to use when providing care to individuals with unknown status, and individuals exhibiting symptoms awaiting tests;

(4) proper donning and doffing of PPE;

(5) the facility’s infection control plans; and

(6) the facility’s emergency preparedness plans.

§570.611. Visitation.

(a) A facility’s visitation policies and procedures may change in response to a public health emergency and must conform to any directives issued by the CDC, DSHS, or HHSC. Facility visitation policies and procedures may not be more restrictive than directives issued by the Centers for Disease Control and Prevention (CDC), Texas Health and Human Services Commission (HHSC), Texas Department of State Health Services (DSHS), or local orders.

(b) A facility must permit clergy to visit a resident at the request of the individual.

(c) A facility may prohibit in-person visitation with a religious counselor during a public health emergency if a federal law or federal agency requires the facility to prohibit in-person visitation during that period.

(d) A facility may allow salon services visits. A facility must establish policies and procedures in response to an outbreak, epidemic, or pandemic, based on guidance issued by the CDC, HHSC, or DSHS that provide conditions for a salon visit to occur.

(e) A facility must permit end of life visits and immediately communicate any changes in a resident’s condition that would qualify the resident for end-of-life visits to the resident representative.

§570.613. Essential Caregiver Visits.

(a) A resident, or the resident’s legally authorized representative, has the right to designate an essential caregiver.

(b) A facility must permit essential caregiver visits.

(c) A facility must develop a visitation schedule that permits an essential caregiver to visit the resident for at least two hours each day.

(d) A facility must have procedures in place to enable physical contact between the resident and the essential caregiver.

(e) The facility must develop safety protocols for essential caregiver visits. The safety protocols may not be more stringent for essential caregivers than safety protocols for staff.

(f) A facility must obtain the signature of the essential caregiver certifying that the essential caregiver will follow the facility’s safety protocols for essential caregiver visits.

(g) A facility may revoke an essential caregiver designation if the caregiver violates the facility’s safety protocols or rules adopted under this chapter.

(h) If a facility revokes a person’s designation as an essential caregiver under subsection (g) of this section:

(1) the resident or the resident’s legally authorized representative has the right to immediately designate another person as the essential caregiver; and

(2) the facility must inform the resident or the resident’s legally authorized representative in writing of the right to an appeal the revocation and the procedures for filing an appeal with the Texas Health and Human Services Commission (HHSC) Appeals Division by:

(A) email at OCC\_Appeals\_ContestedCases@hhs.texas.gov; or

(B) mail at HHSC Appeals Division, P.O. Box 149030, MC W-613, Austin, TX 78714-9030.

(i) A facility may petition HHSC to suspend in-person essential caregiver visits for no more than seven calendar days if in-person visitation poses a serious health risk. A facility must request an extension from HHSC to suspend in-person essential caregiver visits for more than seven calendar days. HHSC may not approve an extension that exceeds seven calendar days.

(j) A facility may not suspend in-person essential caregiver visits in a calendar year for a time period that:

(1) is more than 14 consecutive days; or

(2) is more than a total of 45 days.

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 570 LONG-TERM CARE PROVIDER RULES DURING A CONTAGIOUS DISEASE OUTBREAK, EPIDEMIC, OR PANDEMIC

SUBCHAPTER H HOME AND COMMUNITY-BASED SERVICES

§570.701. Emergency Response to Outbreak, Epidemic, or Pandemic.

(a) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a Home and Community-Based Services program provider must develop and implement a plan for regularly checking federal, state, and local guidance related to the outbreak, epidemic, or pandemic.

(b) During an outbreak, epidemic, or pandemic, a home- and community-based services program provider must:

(1) maintain infection control measures when:

(A) evacuation is necessary;

(B) sheltering in place is necessary; or

(C) receiving individuals evacuating from another residence that has individuals exhibiting signs and symptoms of a contagious disease;

(2) have a transportation plan if the evacuating residence has individuals exhibiting signs and symptoms of a contagious disease;

(3) maintain a 90-day supply of personal protective equipment (PPE), including facemasks for droplet protection, N95 masks, goggles, face shields, gloves, and gowns. Each program provider determines what a 90-day supply is based on the Centers for Disease Control and Prevention burn rate methodology; and

(4) ensure PPE for staff and individuals is available in the event of an evacuation.

(c) Each program provider must have a communication plan to communicate the following information with individuals, individual's legally authorized representative (LAR), and families:

(1) when a positive case is identified at the residence;

(2) current visitation and activities policies and procedures;

(3) alternate methods of visitation that will be available during times of restricted visitation; and

(4) identifying the program provider’s primary point of contact for questions and information and how individuals, individuals' legally authorized representative (LAR), and families can reach the primary point of contact.

§570.703. Testing.

(a) During an outbreak, epidemic, or pandemic, the program provider must have a testing strategy for all staff and individuals if required by the Centers for Disease Control and Prevention, Texas Health and Human Services Commission, or Texas Department of State Health Services.

(b) An individual or an individual’s LAR have the right to refuse testing.

(c) A program provider must:

(1) monitor individuals and staff for signs and symptoms;

(2) screen individuals and staff for any possible exposures; and

(3) activate outbreak infection control measures if:

(A) a positive case is identified in an individual or staff;

(B) an individual or staff is exhibiting related symptoms; and

(C) there is a suspected or known exposure of an individual or staff to a positive case.

§570.705. Reporting.

(a) A program provider must report new positive cases that are identified to the Texas Health and Human Services Commission (HHSC) in accordance with guidance issued by HHSC or the Texas Department of State Health Services.

(b) A program provider must comply with a request from HHSC to submit data related to cases.

(c) A program provider must notify an individual and his or her legally authorized representative if the individual tests positive or if there is a positive case at the residence.

(d) A program provider must not release personally identifying information regarding confirmed or probable cases.

§570.707. Screening Criteria.

(a) If required by the Centers for Disease Control and Prevention (CDC), Texas Health and Human Services Commission, or Texas Department of State Health Services, a program provider must screen all visitors outside of the residence prior to allowing them to enter, except emergency services personnel entering the residence in an emergency.

(b) Visitors who meet any of the following screening criteria when screened must leave the residence:

(1) signs or symptoms specific to the illness or disease that has caused an outbreak, epidemic, or pandemic; and

(2) any other signs and symptoms as outlined by the CDC.

(c) Program provider staff must document all persons entering the residence in a log, 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) A program provider must screen all staff at the beginning of each shift prior to allowing them to enter the residence.

(e) Staff who do not pass screening must leave the residence.

(f) A program provider must not prohibit an individual who lives in the residence from entering the residence even if the individual meets any of the screening criteria.

(g) A program provider must allow persons with legal authority to enter and providers of essential services to enter the residence if they pass the screening as required by subsection (b) of this section.

§570.709. Staff Requirements.

(a) Each program provider must ensure staffing levels are adequate to meet the needs of all individuals, including those in isolation and quarantine.

(b) Each program provider must have a staffing plan in place that:

(1) ensures staff are trained to provide care to individuals; and

(2) a staffing contingency plan to ensure adequate staffing in the event multiple employees are out due to illness.

(c) Each program provider must have at least one staff member per program provider responsible for coordinating the infection control protocol.

(d) Each program provider must document that training was provided to each staff member and that the training topics included:

(1) providing care to individuals in isolation or quarantine;

(2) proper use of personal protective equipment (PPE) that includes information on what to use in each area of the residence, what to use when providing care to individuals with negative status, what to use when providing care to individuals with positive status, and what to use when providing care to individuals with unknown status and individuals exhibiting symptoms awaiting tests;

(3) proper donning and doffing of PPE;

(4) proper cleaning and disinfecting procedures;

(5) the program provider’s infection control plans; and

(6) the program provider’s emergency plan.

§570.711. Visitation.

(a) A program provider’s visitation policies and procedures may change in response to a public health emergency and conform to any directives issued by the Centers for Disease Control and Prevention (CDC), Texas Health and Human Services Commission (HHSC), or Texas Department of State Health Services (DSHS).

(b) A program provider must permit clergy to visit an individual at the request of the individual.

(c) A program provider may prohibit in-person visitation with a religious counselor during a public health emergency if a federal law or federal agency requires the residence to prohibit in-person visitation during that period.

(d) A program provider may allow salon services visits. A program provider must establish policies and procedures in response to an outbreak, epidemic, or pandemic, based on guidance issued by the CDC, HHSC, or DSHS that provide conditions for a salon visit to occur.

(e) A program provider must permit end of life visits and immediately communicate any changes in an individual’s condition that would qualify the individual for end-of-life visits to the individual’s representative.

§570.713. Essential Caregiver Visits.

(a) An individual, or individual’s legally authorized representative (LAR), has the right to designate an essential caregiver.

(b) A program provider must permit essential caregiver visits.

(c) A program provider must develop a visitation schedule that permits an essential caregiver to visit the individual for at least two hours each day.

(d) A program provider must have procedures in place to enable physical contact between the individual and the essential caregiver visitor.

(e) A program provider must develop safety protocols for essential caregiver visits. The safety protocols may not be more stringent for essential caregivers than safety protocols for staff.

(f) A program provider must obtain the signature of the essential caregiver certifying that the essential caregiver will follow the program provider’s safety protocols for essential caregiver visits.

(g) A program provider may revoke an essential caregiver designation if the caregiver violates the program provider’s safety protocols or rules adopted under this chapter.

(h) If a program provider revokes a person’s designation as an essential caregiver under subsection (g) of this section:

(1) the individual, or individual’s LAR, has the right to immediately designate another person as the essential caregiver; and

(2) the program provider must inform the individual or the individual’s legally authorized representative in writing of the right to an appeal the revocation and the procedures for filing an appeal with the Texas Health and Human Services Commission (HHSC) Appeals Division by:

(A) email at OCC\_Appeals\_ContestedCases@hhs.texas.gov; or

(B) mail at HHSC Appeals Division, P.O. Box 149030, MC W-613, Austin, TX 78714-9030.

(i) A program provider may petition HHSC to suspend in-person essential caregiver visits for no more than seven calendar days if in-person visitation poses a serious health risk. A program provider must request an extension from HHSC to suspend in-person essential caregiver visits for more than seven calendar days. HHSC may not approve an extension that exceeds seven calendar days.

(j) A program provider may not suspend in-person essential caregiver visits in a calendar year for a time period that:

(1) is more than 14 consecutive days; or

(2) is more than a total of 45 days.

TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 570 LONG-TERM CARE PROVIDER RULES DURING A CONTAGIOUS DISEASE OUTBREAK, EPIDEMIC, OR PANDEMIC

SUBCHAPTER I TEXAS HOME LIVING

§570.801. Emergency Response to Outbreak, Epidemic, or Pandemic.

(a) During an outbreak, epidemic, or pandemic, whether or not a public health emergency has been declared, a Texas Home Living program provider must have a plan for regularly checking federal, state, and local guidance related to the outbreak, epidemic, or pandemic.

(b) During an outbreak, epidemic, or pandemic, a program provider must maintain infection control measures when either evacuation or sheltering in place is necessary.

(c) Each program provider must have a communication plan that identifies a primary point of contact for questions and information and how individuals, individual’s legally authorized representatives (LAR), and families can reach that point of contact.

§570.803. Reporting.

(a) A program provider must report new positive cases that are identified to the Texas Health and Human Services Commission in accordance with guidance issued by the Centers for Disease Control and Prevention (CDC), HHSC and the Texas Department of State Health Services.

(b) A program provider must comply with a request from HHSC to submit data related to cases.

(c) A program provider must notify an individual and the individual’s LAR if the individual tests positive or if there is a positive case in the individual’s home.

(d) A program provider must not release personally identifying information regarding confirmed or probable cases.

§570.805. Screening.

(a) Prior to staff providing any services to an individual, the staff must use the following screening criteria:

(1) signs or symptoms specific to the illness or disease that has caused an outbreak, epidemic, or pandemic; and

(2) any other signs and symptoms as outlined by the Centers for Disease Control and Prevention.

(b) If the individual fails screening, the service provider must not provide services and must notify the program provider.

(c) A program provider must screen all service providers at the beginning of each shift prior to allowing the service provider to provide services to an individual.

(d) Staff who do not pass screening must not enter the home.

§570.807. Staff Requirements.

(a) Each program provider must implement and maintain a staffing policy to ensure the needs of all individuals are met, including those individuals in isolation or quarantine.

(b) Each program provider must have a staffing plan in place that:

(1) ensures staff are trained to provide care to individuals; and

(2) a staffing contingency plan to mitigate staffing shortages in the event multiple staff are unable to work due to illness or quarantine requirements in relation to the outbreak, epidemic, or pandemic.

(c) Each program provider must have at least one staff member responsible for coordinating infection control protocol.

(d) Each program provider must document that training was provided to each staff member and that the training topics included:

(1) providing care to individuals in isolation or quarantine;

(2) proper use of personal protective equipment (PPE);

(3) proper donning and doffing of PPE; and

(4) the program provider’s infection control plans.