



Long-Term Care Regulatory Provider Letter

Number: PL 2021-06

Title: LTCR Waivers During Severe Winter Weather

Provider Types: Nursing Facility (NF), Intermediate Care Facility for Individuals with an Intellectual Disability or Related Conditions (ICF/IID), Assisted Living Facility (ALF), Day Activity and Health Services (DAHS) Facility, Prescribed Pediatric Extended Care Center (PPECC), Home and Community Support Services Agency (HCSSA), Home and Community-based Services (HCS) Provider

Date Issued: February 19, 2021

1.0 Subject and Purpose

This letter describes state rules and statutes suspended by the Governor during the disaster declared¹ on February 12, 2021 resulting from severe winter weather. Providers must continue to take appropriate precautions to avoid the spread of COVID-19.

2.0 Approved Law and Rule Suspensions

2.1 Capacity Limit Increases

The following laws and rules limiting a licensed facility's ability to exceed its licensed capacity have been suspended. During the suspension of these laws and rules, providers needing to exceed licensed capacity must be approved by the Director of Survey Operations. If your facility is projected to exceed its licensed capacity because it is accepting residents who have been evacuated from another facility, [email Renee Blanch-Haley](#) and include "State Capacity Increase Request" in the subject line.

- NF: 26 Texas Administrative Code (TAC) [§554.201\(g\)](#) and [§554.206\(a\)](#)
- ALF: 26 TAC [§558.18\(a\)-\(b\)](#)

¹ See the Governor's [proclamation](#).

- ICF/IID: 26 TAC [§551.14\(a\)-\(b\)](#) and [§551.287\(1\)](#); Health and Safety Code (HSC) [§252.033\(b\) and \(f\)](#)
- PPECC: 26 TAC [§550.109\(a\)-\(b\)](#); HSC [§248A.152\(c\)](#)
- DAHS: 26 TAC [§559.12\(b\)\(2\)](#) and [§559.14\(a\)](#)

2.2 Admission, Transfer and Discharge Flexibilities

The following laws and rules have been suspended to provide flexibility regarding paperwork and processes to be completed prior to admission, transfer, or discharge. These suspensions allow facilities that receive evacuees to use the documentation from the originating facility without having to redo it.

- NF: 26 TAC [§554.502](#), [§554.801\(1\)](#), and [§554.801\(2\)\(C\)\(i\)](#)
- ALF: 26 TAC [§553.41\(c\)-\(d\)](#)
- PPECC: 26 TAC [§550.604](#) and [§550.608](#)
- HCSSA: 26 TAC [§558.220\(a\)](#) and [§558.810\(a\)](#)

2.3 Medicaid Bed Transfers Across County Lines

The following rule has been suspended to allow NFs to transfer Medicaid beds across county lines without submitting an application or paying a fee. This suspension will allow NFs to safely evacuate an uninhabitable building, when the receiving facility is in another county.

- NF: 26 TAC [§554.2322\(f\)\(2\)](#)

2.4 Waivers Specific to HCS Providers

The following rules are specific to HCS residential providers and have been suspended by the Governor to allow flexibility for providers whose individuals and staff are displaced during the disaster.

- [40 TAC §9.178\(c\)\(1\)-\(2\)](#)
- [40 TAC §9.153\(39\)\(b\)](#)
- [40 TAC §9.174\(a\)\(28\)](#)
- [40 TAC §9.174\(a\)\(38\)\(C\)](#)

These suspensions:

- Suspend the requirement for a provider to conduct an individual-specific on-site inspection of a new service delivery site prior to providing services to the individual.

- Allow an HCS four-person residence to increase its capacity temporarily if the residence has the resources to accommodate additional capacity.
- Allow flexibility in the provision of day habilitation services to individuals during the disaster.
- Suspend the requirement for a complete staff shift change each day for individuals receiving residential support.

3.0 Background/History

The Health and Human Services Commission (HHSC) requested the Office of the Governor suspend certain regulatory requirements in response to the state of disaster declared in Texas relating to the severe winter weather occurring February 14-19, 2021. In accordance with section 418.016 of the Texas Government Code, the Office of the Governor suspended these rules and statutes. This suspension is in effect until terminated by the Office of the Governor or until the disaster declaration is lifted or expires.

4.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules and Training Section by email at PolicyRulesTraining@hhsc.state.tx.us or call (512) 438-3161.