



Health Facility Licensing Guidance Letter

Number: GL 20-1003-A-6
Title: Emergency Hospital Off-site Locations in Response to COVID-19 [Amended]
Provider Types: General and Special Hospitals
Date Issued: July 31, 2020

1.0 Subject and Purpose

This amended guidance letter replaces the previous amended GL 20-1003-A-5, issued on July 24, 2020, to notify providers that on August 1, 2020, the Health and Human Services Commission (HHSC) will extend emergency rule §500.2, Waiver of 36-Month Requirement in Response to COVID-19, for an additional 60 days. The emergency rule extension is effective until September 30, 2020 and can be viewed in the Texas Register under docket number **202001353**.

HHSC requested the Executive Commissioner to adopt emergency rules in response to the state of disaster declared in Texas and the United States of America relating to COVID-19. Under the emergency rule at 26 TAC §500.1, effective March 25, 2020, hospitals are permitted to use certain off-site locations temporarily to more effectively treat and house patients in response to the COVID-19 pandemic. Under the emergency rule at 26 TAC §500.2, effective April 3, 2020, HHSC may waive the requirement for an off-site facility to be licensed or have been open within the past 36 months, if the hospital applying to use the off-site facility provides satisfactory evidence that such a waiver will not detrimentally affect the health or safety of patients, hospital staff, or the public.

This letter describes the emergency rules and the application process.

2.0 Emergency Rule Details

Section 2.1 Emergency rule §500.1. Hospital Off-site Locations in Response to COVID-19.

Under this emergency rule, a hospital licensed under Health and Safety Code Chapter 241 may provide inpatient care at an off-site facility under the hospital's existing license. These off-site facilities must be:

- (1) An inpatient hospice unit licensed under Health and Safety Code Chapter 142 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection.
- (2) A hospital no longer licensed under Health and Safety Code Chapter 241 that closed within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;
- (3) A hospital exempt from licensure under Health and Safety Code Chapter 241;
- (4) A mobile, transportable, or relocatable unit, as defined in 25 TAC § 133.166, that otherwise complies with that section;
- (5) A nursing facility or other institution licensed under Health and Safety Code Chapter 242 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;
- (6) An ambulatory surgical center licensed under Health and Safety Code Chapter 243 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;
- (7) An assisted living facility licensed under Health and Safety Code Chapter 247 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;
- (8) A freestanding emergency medical care facility licensed under Health and Safety Code Chapter 254 either currently or within the past 36 months, or a facility with a pending

application for such a license that has passed its final architectural review inspection;

(9) A mental hospital licensed under Health and Safety Code Chapter 577 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection; or

(10) An outpatient facility operated by the hospital, either currently or within the past 36 months.

Section 2.2 Emergency rule §500.2. Waiver of 36-Month Requirement in Response to COVID-19.

Under this emergency rule, at its sole discretion, HHSC may waive the requirement under §500.1 that an off-site facility must have been licensed or open within the past 36 months, if the hospital applying to use the off-site facility provides satisfactory evidence that such a waiver will not detrimentally affect the health or safety of patients, hospital staff, or the public.

Section 2.3 Application Requirements.

Hospitals must submit [Form 3220, COVID-19 Response Off-Site Facility Application](#), to operate an off-site facility under these restrictions to INFOHFLC@hhsc.state.tx.us and receive approval from HHSC prior to using an off-site facility for inpatient care. HHSC may approve an application, including a waiver of the 36-month requirement, at its sole discretion and may require an inspection or additional documentation prior to approval. HHSC may withdraw its approval to use a facility at any time.

3.0 Background/History

In accordance with Texas Government Code §2001.034, the Executive Commissioner granted HHSC's request to adopt emergency rule §500.1, relating to Hospital Off-site Locations in Response to COVID-19, and §500.2, relating to Waiver of 36-Month Requirement in Response to COVID-19, in Texas Administrative Code (TAC), Title 26, Chapter 500 due to imminent peril to the public health, safety, or welfare. These emergency rules may not be effective for longer than 120 days and may not be renewed for longer than 60 days.

On July 21, 2020, the Health and Human Services Commission (HHSC) extended emergency rule §500.1 Hospital Off-site Locations in Response to COVID-19, for an additional 60 days. The emergency rule extension is effective until September 20, 2020 and can be viewed in the *Texas Register* under docket number **202001252**.

4.0 Resources

Form 3220, COVID-19 Response Off-Site Facility Application, provided at <https://hhs.texas.gov/laws-regulations/forms/3000-3999/form-3220-covid-19-response-site-facility-application>.

View emergency rule §500.1 in the Texas Register by searching Texas Register Docket Number (TRD ID): **202001252** at [https://texreg.sos.state.tx.us/public/regviewctx\\$.startup](https://texreg.sos.state.tx.us/public/regviewctx$.startup).

View emergency rule §500.2 in the Texas Register by searching Texas Register Docket Number (TRD ID): **202001353** at [https://texreg.sos.state.tx.us/public/regviewctx\\$.startup](https://texreg.sos.state.tx.us/public/regviewctx$.startup).

Governor Abbott's Disaster Declaration, provided at https://gov.texas.gov/uploads/files/press/DISASTER_covid19_disaster_proclamation_IMAGE_03-13-2020.pdf.

5.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules and Training Unit by email at HCR_PRT@hhsc.state.tx.us.

If you have any questions about [Form 3220](#) or obtaining a waiver, please contact the Health Facility Licensing Unit by email at INFOHFLC@hhsc.state.tx.us.