



Health Facility Licensing Guidance Letter

Number: GL 20-1005
Title: Emergency ESRD Off-site Locations in Response to COVID-19
Provider Types: End Stage Renal Disease Facilities
Date Issued: April 7, 2020

1.0 Subject and Purpose

The Health and Human Services Commission (HHSC) has adopted emergency rules in response to the state of disaster declared in Texas and the United States of America relating to COVID-19. End stage renal disease (ESRD) facilities will now be permitted to use certain off-site locations temporarily to more effectively dialyze and train patients in response to the COVID-19 pandemic. This letter describes the emergency rule adopted during the disaster.

2.0 Policy Details & Provider Responsibilities

Emergency rule §500.20, related to ESRD Off-site Locations in Response to COVID-19, is adopted under TAC Title 26, Chapter 500, COVID-19 Emergency Health Care Facility Licensing. Under this emergency rule, an ESRD licensed under Health and Safety Code Chapter 251 may provide care at an off-site facility under the ESRD's existing license. These off-site facilities must be:

- (1) an ESRD facility no longer licensed under Health and Safety Code, Chapter 251 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, which:

(A) shall be capable of meeting the current licensing requirements at §117.32(a)-(e) (Water Treatment, Dialysate Concentrates, and Reuse); or

(B) shall provide integrated hemodialysis machines which incorporate water treatment and dialysis preparation and delivery into one system;

(2) A mobile, transportable, or relocatable medical unit utilizing integrated dialysis systems, defined as any trailer or self-propelled unit:

(A) equipped with a chassis on wheels;

(B) without a permanent foundation; and

(C) intended for provision of medical services on a temporary basis.

(3) A physician's office built after January 1, 2015 that is currently in use which shall be used only for home training of COVID-19-negative dialysis patients;

(4) A physician's office built after January 1, 2015 that has closed within the past 12 months which shall be used only for home training of COVID-19-negative dialysis patients and complies with the following:

(A) The office shall be well maintained with all building systems in good working condition; and

(B) Manual fire extinguishers shall be provided in accordance with NFPA 10: Standard for Portable Fire Extinguishers;

(5) An ambulatory surgical center no longer licensed under Health and Safety Code, Chapter 243 that closed within the past 36 months and will be used for either home training or providing in-center dialysis treatment where both of the following are met:

(A) The ESRD facility shall only provide integrated hemodialysis machines; and

(B) The building layout shall provide a direct view of all patient stations from a nurse's station; or

(6) A freestanding emergency medical care facility no longer licensed under Health and Safety Code, Chapter 254 that closed within the past 36 months and will be used for either for home training services or providing in-center dialysis treatment where both of the following are met:

(A) The ESRD facility shall only provide integrated hemodialysis machines; and

(B) The building layout shall provide a direct view of all patient stations from a nurse's station.

ESRDs must submit an application form to operate an off-site facility under these restrictions and water culture testing results that meet the requirements of §117.32(c)(4) to INFOHFLC@hhsc.state.tx.us and receive approval from HHSC prior to using an off-site facility for care. HHSC will approve these applications at its discretion and may require an inspection or additional documentation prior to approval. HHSC may withdraw its approval to use these facilities at any time.

3.0 Background/History

In accordance with Texas Government Code §2001.034, the Executive Commissioner on April 3, 2020 granted HHSC's request to adopt emergency rule §500.20 in Texas Administrative Code (TAC), Title 26, Chapter 500, relating to ESRD Off-site Locations in Response to COVID-19, due to imminent peril to the public health, safety, or welfare. This emergency rule may not be effective for longer than 120 days and may not be renewed for longer than 60 days.

4.0 Resources

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

View emergency rule §500.20 in the Texas Register by searching Texas Register Docket Number (TRD ID): **202001350** at: [https://texreg.sos.state.tx.us/public/regviewctx\\$.startup](https://texreg.sos.state.tx.us/public/regviewctx$.startup).

Governor Abbott's Disaster Declaration is available 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 Section by email at: HCQ_PRT@hhsc.state.tx.us.