



## Health Facility Licensing Guidance Letter

<b>Number:</b> GL 20-1012
<b>Title:</b> Emergency ESRD Off-Site Facilities During the COVID-19 Pandemic
<b>Provider Types:</b> End Stage Renal Disease Facilities
<b>Date Issued:</b> September 29, 2020

### 1.0 Subject and Purpose

The Health and Human Services Commission (HHSC) adopted an emergency rule in response to the state of disaster declared in Texas and the United States of America relating to COVID-19. Under the new emergency rule, effective September 30, 2020, a currently licensed end stage renal disease (ESRD) facility may apply to temporarily operate an off-site outpatient facility without obtaining a new license in response to the COVID-19 pandemic.

This letter describes the emergency rule and the off-site facility application process.

### 2.0 Emergency Rule Details

Emergency rule §500.20, ESRD Off-Site Facilities During the COVID-19 Pandemic, is adopted under Texas Administrative Code (TAC) Title 26, Part 1, Chapter 500, Subchapter B. Under this emergency rule, a currently licensed ESRD facility may apply to operate an off-site outpatient facility without obtaining a new license to treat and train dialysis patients more effectively during the COVID-19 pandemic.

### 2.1 Emergency Rule §500.20 ESRD Off-Site Facilities During the COVID-19 Pandemic

Under emergency rule §500.20, an ESRD facility licensed under Health and Safety Code Chapter 251 may apply to HHSC for approval to provide dialysis

care or home training at an off-site facility under the ESRD facility's existing license. These off-site facilities must be:

(1) an ESRD facility no longer licensed under Texas 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 25 TAC §117.32(a)-(e), (relating to 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 and 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 Texas 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 Texas 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.

## 2.2 Application Requirements

ESRD facilities must submit [Form 3220, COVID-19 Response Off-Site Facility Application](#) and water culture testing results that meet the requirements of §117.32(c)(4) to [INFOHFLC@hhs.texas.gov](mailto:INFOHFLC@hhs.texas.gov) and receive written approval from HHSC prior to using an off-site facility for outpatient care. HHSC may approve an application 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

HHSC originally adopted a previous emergency rule at §500.20, ESRD Off-Site Facilities in Response to COVID-19, on April 3, 2020, and extended it on July 31, 2020. The new emergency rule updates the email address for the Health Facility Compliance unit and adds in new language in subsections (a) and (g).

In accordance with Texas Government Code §2001.034, HHSC adopted new emergency rule §500.20, relating to ESRD Off-Site Facilities During the COVID-19 Pandemic, in 26 TAC, Part 1, Chapter 500, Subchapter B, effective September 30, 2020, 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

View emergency rule §500.20 in the Texas Register by searching Texas Register Docket Number (TRD ID): **202004055** at [https://texreg.sos.state.tx.us/public/regviewctx\\$.startup](https://texreg.sos.state.tx.us/public/regviewctx$.startup).

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>.

Governor Abbott's Disaster Declaration, provided at [https://gov.texas.gov/uploads/files/press/DISASTER\\_covid19\\_disaster\\_proclamation\\_IMAGE\\_03-13-2020.pdf](https://gov.texas.gov/uploads/files/press/DISASTER_covid19_disaster_proclamation_IMAGE_03-13-2020.pdf).

To receive future updates, sign up for GovDelivery:  
<https://service.govdelivery.com/accounts/TXHHSC/subscriber/new>.

## **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@hhs.texas.gov](mailto:HCR_PRT@hhs.texas.gov).