1.0 Subject and Purpose

This amended guidance letter replaces the previous GL 20-2012, issued on March 27, 2020, to notify providers that on July 24, 2020, the Health and Human Services Commission (HHSC) extended emergency rule amendments to §135.2, Definitions, and §135.26, Reporting Requirements, for an additional 60 days. The emergency rule extension is effective until September 22, 2020 and can be viewed in the Texas Register under docket number 202001270.

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. Ambulatory surgical centers (ASCs) will now be permitted to expand their services beyond surgical services and keep patients for longer periods of time in response to the COVID-19 pandemic. ASCs must also now report to the Department of State Health Services (DSHS) the number of functioning ventilators and other respiratory support equipment at the ASC and any additional information required by DSHS. This letter describes the emergency rule and provides directions for IMMEDIATE reporting of required information.

2.0 Emergency Rule Details

The emergency rule amends the definition of ASC in 25 TAC §135.2, Definitions. Under this emergency rule, an ASC licensed under Health and Safety Code Chapter 243 may provide surgical services and other health care services to patients and may keep patients for longer than 23 hours.
The emergency rule also amends 25 TAC §135.26, Reporting Requirements. Under this emergency rule, an ASC licensed under Health and Safety Code Chapter 243 does not have to report the following incidents to HHSC:

(1) the transfer of a patient to a hospital; or

(2) a patient stay exceeding 23 hours.

A licensed ASC must still comply with existing requirements to report:

(1) the death of a patient while under the care of the ASC; and

(2) patient development of complications within 24 hours of discharge from the ASC resulting in admission to a hospital.

In addition, a licensed ASC must now report the number of functioning ventilators and other respiratory support equipment it has, and any other information as required, to DSHS.

2.1 Directions for IMMEDIATE Reporting of NEW Required Information to DSHS

In accordance with the emergency reporting requirements, ASCs must report the number of functioning ventilators and other respiratory support equipment they have, and any other information as required by DSHS. Due to the urgent need of this information for emergency response to COVID-19, the first required report is due NOT LATER THAN 10:00 am CST, on Monday March 30, 2020.

To report this critical information by the required timeframe, ASCs shall use the reporting form at this link: https://app.smartsheet.com/b/form/d8a40549d4f64694b9022854a09d4884.

ASCs must report this information by the required due date but are strongly encouraged to report this information as soon as possible. The frequency for reporting required information is weekly, unless directed otherwise by DSHS.

3.0 Background/History

In accordance with Texas Government Code §2001.034, HHSC has adopted emergency rule amendments in §135.2 and §135.26 in Texas Administrative Code (TAC), Title 25, Chapter 135, Subchapter A, Operating Requirements for Ambulatory Surgical Centers, 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 §135.2 and §135.26 in the Texas Register by searching Texas Register Docket Number (TRD ID): **202001270** at https://texreg.sos.state.tx.us/public/reqviewctx$.startup.

View the ASC Required Information Report form, provided at https://app.smartsheet.com/b/form/d8a40549d4f64694b9022854a09d4884.


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.state.tx.us.

If you have any questions about the report form for the new required reporting to DSHS, please contact DSHS by email at dana.birnberg@dshs.texas.gov or phone at (512) 203-6731.