

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 558 LICENSING STANDARDS FOR HOME AND COMMUNITY
SUPPORT SERVICES AGENCIES

SUBCHAPTER I Response to COVID-19 and Pandemic-level Communicable
Disease

EMERGENCY ADOPTION PREAMBLE

The Executive Commissioner of the Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 558 Licensing Standards for Home and Community Support Services Agencies, new §558.950 concerning an emergency rule in response to COVID-19 describing requirements for visitation in a hospice inpatient unit. As authorized by Government Code §2001.034 the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. The Commission accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this Emergency Rule for HCSSA Response to COVID-19. The Commission accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this response to COVID-19 and pandemic-level communicable disease.

To protect clients in hospice inpatient units and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting a new emergency rule to allow limited indoor and outdoor visitation in a hospice inpatient unit. The purpose of the new rule is to describe the requirements related to such visits.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Government Code §2001.034 and §531.0055 and Health and Safety Code §142.012. Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires

adoption of a rule on fewer than 30 days' notice. Government Code §531.0055 authorizes the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Health and Safety Code §142.012, authorizes the Executive Commissioner of HHSC to adopt rules governing necessary to implement Chapter 142 of the Health and Safety Code, concerning, Home and Community Support Services. Health and Safety Code §142.012, authorizes the Executive Commissioner of HHSC to adopt rules governing minimum standards for home and community support services agencies that are necessary to protect the public.

ADDITIONAL INFORMATION

For further information, please call: (512) 438-3161.

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**§558.950. Hospice Inpatient Units COVID-19 Response – Reopening
Visitation.**

(a) The following words and terms, when used in this section, have the following meanings.

(1) Closed window visit--A personal visit between a visitor and a client during which the client and visitor are separated by a closed window and the visitor does not enter the building. A closed window visit is permitted at all hospice inpatient units and for all clients of a hospice inpatient unit.

(2) COVID-19 negative--A person who has tested negative for COVID-19, is not exhibiting symptoms of COVID-19, and has had no known exposure to the virus since the negative test.

(3) COVID-19 positive--The status of a person who has tested positive for COVID-19 and does not yet meet Centers for Disease Control and Prevention (CDC) guidance for the discontinuation of transmission-based precautions.

(4) End-of-life visit--A personal visit between a visitor and a client who is actively dying. An end-of-life visit is permitted in all hospice inpatient units and for all clients of a hospice inpatient unit at the end of life.

(5) Essential caregiver--A family member or other outside caregiver, including a friend, volunteer, private personal caregiver or court appointed guardian, who is at least 18 years old and has been designated by a client or legal representative to provide regular care and support to the client.

(6) Essential caregiver visit--A personal visit between a client and a designated essential caregiver as described in subsection (e) of this section. An essential caregiver visit is permitted in all hospice inpatient units for COVID-19 negative and unknown COVID-19 status clients.

(7) Facility-acquired COVID-19--COVID-19 infection that is acquired after admission to a hospice inpatient unit and was not present at the end of the 14-day quarantine period following admission or readmission.

(8) Open window visit--A personal visit between a visitor and a client during which the client and personal visitor are separated by an open window.

(9) Outbreak--One or more laboratory-confirmed cases of COVID-19 identified in either a client or paid or unpaid staff.

(10) Outdoor visit--A personal visit between a client and one or more personal visitors that occurs in-person in a dedicated outdoor space.

(11) Persons providing critical assistance--Providers of essential services, persons with legal authority to enter, family members or friends of clients at the end of life and designated essential caregivers as described in subsection (e) of this section.

(12) Persons with legal authority to enter--Law enforcement officers and government personnel performing their official duties.

(13) Plexiglass indoor visit--A personal visit between a client and one or more personal visitors, during which the client and the visitor are both inside the hospice inpatient unit but within a booth, separated by a plexiglass barrier, and the client remains on one side of the barrier and the visitor remains on the opposite side of the barrier.

(14) Providers of essential services--Hospice employees and contractors, including but not limited to physicians, nurses, hospice aides, social workers, therapists, spiritual counselors, and volunteers.

(15) Salon services visit--A personal visit between a client and a salon services visitor as described in subsection (n) of this section. A salon services visit is permitted in all hospice inpatient units for COVID-19 negative clients.

(16) Salon services visitor--A barber, beautician or cosmetologist providing hair care or personal grooming services to a client.

(17) Unknown COVID-19 status--The status of a person who is a new admission or readmission, has spent one or more nights away from the hospice inpatient unit, has had known exposure or close contact with a person who is COVID-19 positive, or who is exhibiting symptoms of COVID-19 while awaiting test results.

(18) Vehicle parade--A personal visit between a client and one or more personal visitors, during which the client remains outdoors on the hospice inpatient unit grounds, and a visitor drives past in a vehicle.

(b) A hospice agency operating a hospice inpatient unit must screen all visitors outside of the unit prior to allowing them to enter, except emergency services personnel entering the unit in an emergency and personal visitors participating in a vehicle parade or a closed window visit. Visitor screenings must be documented in a log kept at the entrance to the hospice inpatient unit, which must include the name of each person screened, the date and time of the screening, and the results of the screening. The visitor screening log may contain protected health information and

must be protected in accordance with applicable state and federal law.

(c) Visitors who meet any of the following screening criteria must leave the hospice inpatient unit and reschedule the visit:

(1) fever, defined as a temperature of 100.4 Fahrenheit and above;

(2) signs or symptoms of COVID-19, including chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea;

(3) any other signs and symptoms as outlined by the Centers for Disease Control and Prevention (CDC) in Symptoms of Coronavirus at [cdc.gov](https://www.cdc.gov);

(4) contact in the last 14 days with someone who has a confirmed diagnosis of COVID-19, is under investigation for COVID-19, or is ill with a respiratory illness, unless the visitor is seeking entry to provide critical assistance; or

(5) has a positive COVID-19 test result from a test performed in the last 10 days.

(d) A hospice agency operating a hospice inpatient unit may allow persons providing critical assistance, including essential caregivers, to enter the unit if they pass the screening in subsection (c) of this section, except as provided in subsections (e)(8)(H) and (e)(9)(F) of this section. A hospice agency operating a hospice inpatient unit shall not prohibit entry of persons with legal authority to enter when performing their official duties, unless they do not pass the screening in subsection (c) of this section.

(e) The following requirements apply to essential caregiver visits:

(1) There may be up to two permanently designated essential caregiver visitors per client.

(2) Only one essential caregiver at a time may visit a client.

(3) Each visit is limited to two hours, unless the hospice agency determines that it can only accommodate a visit for a shorter duration or that it can accommodate a longer duration and adjusts the duration of the visit accordingly.

(4) The visit may occur outdoors, in the client's room, or in another area in the hospice inpatient unit that limits visitor movement through the unit and interaction with other clients.

(5) Essential caregiver visitors do not have to maintain physical distancing between themselves and the client they are visiting, but must maintain physical distancing between themselves and all other clients and staff.

(6) The client must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(7) The hospice agency operating a hospice inpatient unit must develop and enforce essential caregiver visitation policies and procedures, which include:

(A) a testing strategy for designated essential caregivers;

(B) a written agreement that the essential caregiver understands and agrees to follow the applicable policies, procedures, and requirements;

(C) training each designated essential caregiver on proper personal protective equipment (PPE) usage and infection control measures, hand hygiene, and cough and sneeze etiquette;

(D) the essential caregiver must wear a facemask and any other appropriate PPE recommended by CDC guidance and the hospice agency's policy while in the hospice inpatient unit;

(E) expectations regarding using only designated entrances and exits as directed;

(F) limiting visitation to the area designated by the hospice agency in accordance with paragraph (4) of this subsection;

(G) hospice agency staff must escort the essential caregiver from the hospice inpatient unit entrance to the designated visitation area at the start of each visit; and

(H) hospice agency staff must escort the essential caregiver from the designated visitation area to the hospice inpatient unit exit at the end of each visit.

(8) The hospice agency operating a hospice inpatient unit must:

(A) inform the essential caregiver visitor of applicable policies, procedures, and requirements;

(B) approve the visitor's facemask and any other appropriate PPE recommended by CDC guidance and the hospice agency's policy, or provide an approved facemask and other PPE;

(C) maintain documentation of the essential caregiver visitor's agreement to follow the applicable policies, procedures and requirements;

(D) maintain documentation of the essential caregiver visitor's training as required in paragraph (7)(C) of this subsection;

(E) maintain documentation of the date of last COVID-19 test as reported by the essential caregiver;

(F) document the identity of each essential caregiver in the client's records and verify the identity of the essential caregiver by creating an essential caregiver visitor badge;

(G) maintain a record of each essential caregiver visit, including:

(i) the date and time of the arrival and departure of the essential caregiver visitor;

(ii) the name of the essential caregiver visitor;

(iii) the name of the client being visited; and

(iv) attestation that the identity of the essential caregiver visitor was confirmed; and

(H) prevent visitation by the essential caregiver if the client has an active COVID-19 infection.

(9) The essential caregiver must:

(A) wear a facemask over both the mouth and nose and any other appropriate PPE recommended by CDC guidance and the hospice agency's policy while in the hospice inpatient unit;

(B) have a negative COVID-19 test result from a test performed no more than 14 days before the first essential caregiver visit, unless the hospice agency chooses to perform a rapid test prior to entry in the hospice inpatient unit;

(C) sign an agreement to leave the hospice inpatient unit at the appointed time unless otherwise approved by the hospice agency;

(D) self-monitor for signs and symptoms of COVID-19;

(E) not participate in visits if the designated essential caregiver has signs and symptoms of COVID-19, active COVID-19 infection, or other communicable diseases; and

(F) not participate in visits if the client has an active COVID-19 infection.

(10) The hospice agency may cancel the essential caregiver visit if the essential caregiver fails to comply with the agency's policy regarding essential caregiver visits or applicable requirements in this section.

(f) A hospice agency operating a hospice inpatient unit approved by the Texas Health and Human Services Commission (HHSC) may allow limited personal visitation as permitted by this section upon receiving an approved visitation designation. Approved visitation designation for a hospice inpatient unit is not required for a closed window visit, end-of-life visit, or visits by persons providing critical assistance including essential caregivers. If a hospice agency operating a hospice inpatient unit fails to comply with the requirements of this section, HHSC may rescind the visitation designation and may take enforcement action in accordance with Subchapter F of this chapter.

(g) To request a visitation designation, a hospice agency operating a hospice inpatient unit must submit a completed LTCR Form 7004, (Reopening Visitation Status Attestation), including a map of the hospice inpatient unit indicating which areas, units, wings, halls, or buildings accommodate COVID-19 negative, COVID-19 positive, and unknown COVID-19 status clients, to the Regional Director in the LTCR Region where the hospice inpatient unit is located.

(h) To receive a visitation designation, a hospice agency operating a hospice inpatient unit must demonstrate that:

(1) it has separate areas, units, wings, halls, or buildings designated for COVID-19 positive, COVID-19 negative, and unknown COVID-19 status clients cohorts;

(2) separate dedicated staff are working exclusively in the separate areas, units, wings, halls, or buildings for clients who are COVID-19 positive, COVID-19 negative or unknown COVID-19 status;

(3) there have been no confirmed COVID-19 cases for at least 14 consecutive days in staff working in the area, unit, wing, hall, or building which accommodates clients who are COVID-19 negative;

(4) there have been no facility-acquired COVID-19 confirmed cases for at least 14 consecutive days in clients in the COVID-19 negative area, unit, wing, hall, or building;

(5) staff are designated to work with only one client cohort and the designation does not change from one day to another; and

(6) if a hospice inpatient unit has had previous cases of COVID-19 in staff or clients in the area, unit, wing, hall, or building that accommodates clients who are

COVID-19 negative, HHSC can confirm the following:

(A) all staff and clients in the COVID-19 negative area, unit, wing, hall, or building have fully recovered;

(B) the hospice agency has adequate staffing to continue care for all clients in the hospice inpatient unit and supervise visits permitted by this section; and

(C) the hospice inpatient unit is in compliance with infection control requirements and emergency rules related to COVID-19.

(i) A hospice agency operating a hospice inpatient unit must provide instructional signage throughout the unit and proper visitor education regarding:

- (1) the signs and symptoms of COVID-19 signs;
- (2) infection control precautions; and
- (3) other applicable hospice inpatient unit practices (e.g., use of facemask or other appropriate PPE, specified entries and exits, routes to designated visitation areas, hand hygiene).

(j) A hospice agency operating a hospice inpatient unit with a visitation designation may allow outdoor visits, open window visits, vehicle parades, and plexiglass indoor visits involving clients and personal visitors. The following limits apply to all visitation allowed under this subsection.

(1) Visits must be scheduled in advance and are by appointment only.

(2) Visitation appointments must be scheduled to allow time for cleaning and sanitization of the visitation area between visits.

(3) Open window visits, vehicles parades, essential caregiver visits, and plexiglass indoor visits are permitted as can be accommodated by the hospice inpatient unit only for clients who are COVID-19 negative.

(4) Closed window visits and end-of-life visits are permitted for clients who are COVID-19 negative, COVID-19 positive, or unknown COVID-19 status as can be accommodated by the hospice inpatient unit.

(5) Physical contact between clients and visitors is prohibited, except for essential caregiver visits and end-of-life visits.

(6) Visits are permitted only where adequate space is available that meets criteria and when adequate staff are available to monitor visits. Essential caregiver visits and end-of-life visits can take place in the client's room or other area of the hospice inpatient unit separated from other clients. The hospice inpatient unit must limit the movement of the visitor through the unit to ensure interaction with other clients is minimized.

(7) The visitor must wear a facemask or face covering over both the mouth and nose throughout the visit, except visitors participating in a vehicle parade or closed window visit.

(8) The client must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(9) The hospice inpatient unit must ensure physical distancing of at least six feet is maintained between visitors and clients at all times and limit the number of visitors and clients in the visitation area as needed to ensure physical distancing is maintained. Essential caregiver visitors and end-of-life visitors do not have to maintain physical distancing between themselves and the client they are visiting, but they must maintain physical distancing between themselves and all other clients, staff, and other visitors.

(10) The hospice inpatient unit must limit the number of visitors per client per week, and the length of time per visit, to ensure equal access by all clients to visitors.

(11) Cleaning and disinfecting of the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit.

(12) The hospice agency must ensure a comfortable and safe outdoor visiting area for outdoor visits, open window visits, and vehicle parades considering outside air temperatures and ventilation.

(13) For outdoor visits, the hospice agency must designate an outdoor area for visitation that is separated from clients and limits the ability of the visitor to interact with clients.

(14) A hospice agency must provide hand washing stations, or hand sanitizer, to the visitor and client before and after visits, except visitors participating in a vehicle parade or closed window visit.

(15) The visitor and the client must practice hand hygiene before and after the visit, except visitors participating in a vehicle parade or closed window visit.

(k) The following requirements apply to vehicle parades.

(1) Visitors must remain in their vehicles throughout the parade.

(2) The hospice inpatient unit must ensure physical distancing of at least six feet is maintained between clients throughout the parade.

(3) The hospice inpatient unit must ensure clients are not closer than 10 feet to the vehicles for safety reasons.

(4) The client must wear a facemask or face covering over both the mouth

and nose (if tolerated) throughout the visit.

(l) The following requirements apply to plexiglass indoor visits.

(1) The plexiglass booth must be installed in an area of the hospice inpatient unit where it does not impede a means of egress, does not impede or interfere with any fire safety equipment or system, and does not offer access to the rest of the unit or contact between the visitors and other clients.

(2) Prior to using the booth, the hospice agency must submit a photo of the plexiglass visitation booth and its location in the hospice inpatient unit to the Life Safety Code Program Manager in the LTCR Region in which the unit is located and must receive approval from HHSC.

(3) The visit must be supervised by hospice agency staff for the duration of the visit.

(4) The client must wear a facemask or face covering (if tolerated) throughout the visit.

(5) The visitor must wear a facemask or face covering over both the mouth and nose throughout the visit.

(6) The hospice inpatient unit shall limit the number of visitors and clients in the visitation area as needed.

(m) If a hospice agency operating a hospice inpatient unit will allow salon services visits, then the hospice agency may allow a salon services visitor to enter the hospice inpatient unit to provide services to a client only if:

(1) the salon services visitor passes the screening described in subsection (c) of this section;

(2) the salon services visitor agrees to comply with the most current version of the Minimum Standard Health Protocols – Checklist for Cosmetology Salons/Hair Salons, located on website: <https://open.texas.gov/>; and

(3) the requirements of subsection (n) of this section are met.

(n) The following requirements apply to salon services visits.

(1) Each visit is limited to two hours, unless the hospice agency determines that it can only accommodate a visit for a shorter duration or that it can accommodate a longer duration and adjusts the duration of the visit accordingly.

(2) The visit may occur outdoors, in the client's room, or in another area in the hospice inpatient unit that limits visitor movement through the unit and interaction with other clients.

(3) Salon services visitors do not have to maintain physical distancing between themselves and the client they are visiting, but must maintain physical distancing between themselves and all other clients and staff.

(4) The client must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(5) The hospice agency operating a hospice inpatient unit must develop and enforce salon services visitation policies and procedures, which include:

(A) a testing strategy for salon services visitors;

(B) a written agreement that the salon services visitor understands and agrees to follow the applicable policies, procedures, and requirements;

(C) training each salon services visitor on proper PPE usage and infection control measures, hand hygiene, and cough and sneeze etiquette;

(D) the salon services visitor must wear a facemask and any other appropriate PPE recommended by CDC guidance and the hospice agency's policy while in the hospice inpatient unit;

(E) expectations regarding using only designated entrances and exits as directed;

(F) limiting visitation to the area designated by the hospice agency in accordance with paragraph (2) of this subsection;

(G) hospice agency staff must escort the salon services visitor from the hospice inpatient unit entrance to the designated visitation area at the start of each visit; and

(H) hospice agency staff must escort the salon services visitor from the designated visitation area to the hospice inpatient unit exit at the end of each visit.

(6) The hospice agency operating a hospice inpatient unit must:

(A) inform the salon services visitor of applicable policies, procedures, and requirements;

(B) approve the visitor's facemask or provide an approved facemask;

(C) maintain documentation of the salon services visitor's agreement to follow the applicable policies, procedures and requirements;

(D) maintain documentation of the salon services visitor's training as required in paragraph (5)(C) of this subsection;

(E) maintain documentation of the date of last COVID-19 test as reported by the salon services visitor;

(F) document the identity of each salon services visitor in the hospice agency's records and verify the identity of the salon services visitor by creating a salon services visitor badge;

(G) maintain a record of each salon services visit, including:

(i) the date and time of the arrival and departure of the salon services visitor;

(ii) the name of the salon services visitor;

(iii) the name of the client being visited; and

(iv) attestation that the identity of the salon services visitor was confirmed; and

(H) prevent visitation by the salon services visitor if the client has an active COVID-19 infection.

(7) The salon services visitor must:

(A) wear a facemask over both the mouth and nose and any other appropriate PPE recommended by CDC guidance and the hospice agency's policy while in the hospice inpatient unit;

(B) have a negative COVID-19 test result from a test performed no more than 14 days before the first salon services visit, unless the hospice agency chooses to perform a rapid test prior to entry in the hospice inpatient unit;

(C) sign an agreement to leave the hospice inpatient unit at the appointed time unless otherwise approved by the hospice agency;

(D) self-monitor for signs and symptoms of COVID-19;

(E) not participate in visits if the salon services visitor has signs and symptoms of COVID-19, active COVID-19 infection, or other communicable diseases; and

(F) not participate in visits if the client has an active COVID-19 infection.

(8) The hospice agency operating a hospice inpatient unit may cancel the salon services visit if the salon services visitor fails to comply with the hospice agency's policy regarding salon services visits or applicable requirements in this section.

(o) If, at any time after a visitation designation is approved by HHSC, the area, unit, wing, hall, or building accommodating clients who are COVID-19 negative experiences an outbreak of COVID-19, the hospice agency must notify the Regional Director in the LTRC Region where the hospice inpatient unit is located that the area, unit, wing, hall, or building no longer meets visitation criteria, and all visitation, except a closed window visit, end-of-life visit, or visits by persons providing critical assistance including essential caregivers, must be cancelled until the area, unit, wing, hall, or building meets the criteria described in subsection (g) of this section and visitation approval is provided by HHSC.

(p) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority, that is more restrictive than this rule or any minimum standard relating to a hospice agency operating a hospice inpatient unit, the hospice agency must comply with the executive order or other direction.