

Congress of the United States
Washington, DC 20515

Dec. 16, 2022

The Honorable Greg Abbott
Office of the Governor
PO Box 12428
Austin, TX 78711-2428

Dear Governor Abbott:

We write to respectfully request your office pursue emergency rulemaking for any provisions necessary to permit Texas hospitals to become licensed and operate as rural emergency hospitals (REHs).

As you may be aware, REH is a new Medicare provider type created by Congress in the Consolidated Appropriations Act of 2021. The Centers for Medicare and Medicaid Services (CMS) finalized conditions of participation, payment rates, quality measures, and Medicare enrollment requirements for REHs in November 2022. Beginning in January 2023, rural hospitals that meet certain criteria can apply to CMS to convert to REH status, continuing to provide emergency department, observation, and outpatient care while generally not providing any acute care inpatient services. Congress worked on a bipartisan basis to develop this “step down” model for rural hospitals, and as a result our bill, the “Save Rural Communities Act,” became law.

A recent [report](#) showed that in 2022, 26% of Texas rural hospitals were at risk of closure compared to 5% of urban hospitals. The rural hospitals that will benefit from conversion to REH are those facing the possibility of closure due to the high fixed overhead costs of maintaining inpatient beds. The new REH designation offers a financial lifeline for these rural hospitals, allowing them to continue caring for patients in their communities. Some rural hospitals in Texas are seeking to convert to REH at the earliest opportunity.

While the federal process to enroll new REHs has been finalized, Texas has not completed regulatory actions that would allow rural hospitals to convert seamlessly to REH in January 2023. These include licensure rules and standards as permitted by [SB 1621](#) (86th Regular Session, Texas Legislature). State agencies are authorized to adopt emergency rules without prior notice and hearing if the agency finds that an imminent peril to the public health, safety, and welfare exists.¹

¹ Tex. Gov't Code § 2001.034.

Lack of access to health care, particularly emergency care, presents an imminent peril to the public health, safety, and welfare of Texas citizens residing in these rural communities,² and should be sufficient justification to adopt an emergency rule for the licensure of REHs in Texas. In many places, a closure could place the residents of that community dozens of miles from the nearest hospital, facing a commute of 30 minutes or more. For a child in respiratory distress, someone suffering a heart attack or stroke, a woman in labor, or another health crisis, half an hour could mean the difference between life and death.

We share with you a firm commitment to preserving access to health care for rural Texans, and we sincerely hope your office will consider expediting actions that will save the rural hospitals relying on this new model to survive. Due to the time sensitive nature and gravity of this situation, an update on the state's response is respectfully requested and appreciated. Thank you for your attention to these concerns and partnership to ensure rural hospitals in financial stress can continue to serve those in their communities.

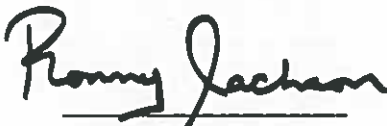
Sincerely,



Jodey C. Arrington
Member of Congress



Pete Sessions
Member of Congress



Ronny L. Jackson
Member of Congress



August Pfluger
Member of Congress

² The Public Utility Commission has previously adopted emergency rules to address estimation of electric consumption for certain customers affected by Hurricane Ike (even after the Governor's disaster declaration for the hurricane expired) and to suspend the disconnection of electric service during the summer of 2006 as a result of persistent and extreme heat— most likely due to their determination that such events coupled with the failure to issue such rules would present imminent peril to public health. *In re Office of the Public Utility Counsel*, 2006 WL 2056382 (2006), 250 P.U. R.4th151; 2008 WL 5451559 (2008). See also Tex. Ins. Code § 1502.002(b) (allowing the Texas Department of Insurance to adopt emergency rules to implement laws governing children's health benefit plans, and thus finding, by implication, that children's lack of access to healthcare services presents an imminent peril to public health, safety and welfare).