



March 24, 2020

Cameron Duncan
Associate General Counsel
Texas Hospital Association
1108 Lavaca Street, Suite 700
Austin, TX 78701

RE: State Flexibility Request

Dear Mr. Duncan,

Thank you for your letter dated March 18, 2020 requesting state flexibilities for health care providers due to COVID-19. DSHS is providing a response only to the request posed to DSHS in this letter (number 15):

15. Temporarily suspend routine inspections and on-site investigations of hospitals, except for surveys related to COVID-19 and initial surveys necessary for facilities to open or add space (e.g., stroke facility designation, neonatal facility designation, maternal facility designation and trauma facility designation). Extend facility designation periods for facility designations about to expire.

Our response addresses three separate parts of your question:

HOSPITAL INSPECTIONS

For the next sixty days, as a precautionary measure in response to COVID-19 and to align with FDA guidance, DSHS will reprioritize Radioactive Material, X-Ray and Mammography inspections at hospitals, urgent care facilities, and doctors' offices. The timeframe for the reprioritization and/or reallocation of inspection resources will remain dependent upon the progression of COVID-19 and guidance DSHS receives from FDA on Mammography inspections. As needed, DSHS will continue to conduct complaint investigations related to injury and will inspect any reported incidents related to radioactive material at these locations.

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Asbestos and lead notifications at hospitals will be triaged to determine if an on-site inspection is required. DSHS will continue to conduct complaint investigations. The sites DSHS inspects are generally restricted construction areas and not accessible to the general public.

INITIAL SURVEYS FOR FACILITIES TO OPEN OR ADD SPACE

DSHS has no regulatory jurisdiction over opening or adding space. HHSC may be able to assist with this request.

DESIGNATIONS

For the next sixty days, upon written request, administrative extensions will be considered for designated facilities to prevent expiration of their designation. The extensions may include facilities with trauma, stroke, or neonatal designations. These extensions are issued as follows:

- Extensions are temporary.
- Considered on a case-by-case basis.
- The circumstances that cause a facility to not meet the deadline for applying for designation are limited to those that are out of the control of the facility. For example, if a facility had a scheduled onsite survey that was cancelled by the survey organization, through no fault of the facility, which then delays the facility's ability to meet the application requirements, then this circumstance would be considered in determining whether to grant an extension.
- DSHS will provide written notice to the facility of any extension of the designation which includes the duration of the extension.
- DSHS will update the program website with the extended expiration date of any facility given an extension.

Separately, we are responding to your question via e-mail, received Friday, March 3, 2020 at 3:17 p.m., which asked:

The trauma rules (and some other rules) require current ACLS BLS and PALS. We wanted to see if we could extend the deadline for certifications that are set to expire until the end of August.

An extension for required certifications is not necessary at this time. Facilities receiving a potential deficiency cited on their survey report, may submit an explanation and a plan of correction to achieve compliance with

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the requirements for consideration by the department. This process is currently in place and utilized during designation application.

We would like to affirm that the state and hospitals have a shared responsibility to protect public health, especially during the COVID-19 pandemic. We must both ensure that facilities maintain the proper levels of care and safety while being sensitive to the challenges posed by COVID-19. If your facility experiences any operational issues, it is imperative that you document all actions taken to address the issue.

If you have any questions concerning this matter or need additional information, please contact Joseph Schmider, State EMS Director (joseph.schmider@dshs.texas.gov or 512-834-6737), Elizabeth Stevenson, Designation Program Manager (elizabeth.stevenson@dshs.texas.gov or 512-834-6794) or Lisa Bruedigan, Radiation Unit Manager (lisa.bruedigan@dshs.texas.gov or 512-834-6629).

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Pahl", written over a horizontal line.

Stephen Pahl

Associate Commissioner
Consumer Protection Division

cc: David Kostroun,
Deputy Executive Commissioner, Regulatory Services
Division, Texas Health and Human Services Commission

Stephanie Muth,
Deputy Executive Commissioner, Medicaid & CHIP Services,
Texas Health and Human Services Commission