

# ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

## TITLE 16. ECONOMIC REGULATION

### PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

#### CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS

##### SUBCHAPTER D. RATE-MAKING APPEALS

###### 16 TAC §24.101

The Public Utility Commission of Texas (commission) adopts amendments to 16 Texas Administrative Code (TAC) §24.101, relating to Appeal of Rate-making Decision. The commission adopts these amendments with changes to the proposed text as published in the May 26, 2023, issue of the *Texas Register* (48 TexReg 2649) and will be republished. This rule implements Texas Water Code § 13.043 as revised by Senate Bill 387 and House Bill 3689 during the 87th Regular Legislative Session. The amended rule reflects the commission's appellate authority by allowing ratepayers to appeal an increase in municipally owned utility (MOU) water and sewer rates, including a rate increase resulting from a decision by the governing body of the municipality that takes over the provision of service to ratepayers previously served by another retail public utility. The amended rule also clarifies that in an appeal under this section, the commission will ensure that every appealed rate is just and reasonable.

The commission received comments on the proposed rule from the Office of Public Utility Counsel (OPUC).

###### General Comments

OPUC expressed general support for the proposed rule.

###### Section 24.101(c)

Proposed §24.101(c) delineates which retail ratepayers may appeal the decision of the governing body of an entity that regulates their water, sewer and drainage rates. Further, §24.101(c)(3) specifies which MOU ratepayers can appeal such rate decisions under §24.101(c).

OPUC commented that the proposed language may lead to misinterpretations over the commission's authority to consider certain appeals and recommended language. Specifically, OPUC argued that the rule language should be clarified to reflect that the commission can also consider appeals of rate increases that resulted from a municipality expanding its corporate limits to include the affected customers.

###### Commission Response

The commission declines to modify the proposed rule to clarify that the commission can consider an appeal of MOU rates that increase as a result of a municipality expanding its corporate limits. The proposed rule language mirrors the statutory language. If a ratepayer initially resides outside the corporate limits of a municipality, but the MOU then takes over the provision of service to that ratepayer as part of an expansion of the municipality's corporate limits, by definition, the ratepayer no longer "resides outside the corporate limits of the municipality." Accordingly, the statutory provision allowing a rate appeal before the commission no longer applies. Once a ratepayer is within the corporate limits of an MOU, it can appeal to the governing body of the municipality via the political process or through a locally established appeals process, if available.

###### Section 24.101(c)(3)(D)

Proposed §24.101(c)(3)(D) delineates the conditions under which a municipally owned utility's water, sewer and drainage rates cannot be appealed to the commission.

OPUC recommended clarifying the language in 16 TAC §24.101(c)(3)(D) to ensure the provision is consistent with Texas Water Code § 13.043(b-4).

###### Commission Response

The commission modifies the language for clarity as recommended by OPUC.

###### Section 24.101(e)

Proposed §24.101(e) states the commission will hear an appeal under this section de novo and fix in its final order the rates the governing body should have fixed in the action that is being appealed. Paragraphs (1) and (2) of this subsection also states that the commission can include reasonable expenses incurred during the appeal proceeding in the final rates.

OPUC recommended that the standard for expenses incurred for appeal proceedings before the commission be revised from "reasonable" to "reasonable and necessary expenses."

###### Commission Response

The commission declines to amend the standard for appeal proceeding expenses as recommended by OPUC. Texas Water Code §13.043(a) and (e) only require that appeal expenses be reasonable. The proposed rule accurately reflects the statutory language.

OPUC also recommended clerical edits to subsection (e)(2) for consistency with other provisions in the rule.

###### Commission Response

The commission agrees with OPUC's recommendation and implements the proposed changes.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this rule, the commission makes other minor modifications for the purpose of clarifying its intent.

The amendment is adopted under TWC §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do all things specifically designated or implied by TWC necessary and convenient to the exercise of that power and jurisdiction; TWC §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction. The amendment is adopted under TWC §13.043, which relates to appellate jurisdiction of the commission.

Cross Reference to Statute: Texas Water Code §§13.041(a), 13.041(b), and 13.043.

§24.101. *Appeal of Rate-making Decision, Pursuant to the Texas Water Code §13.043.*

(a) Any party to a rate proceeding before the governing body of a municipality may appeal the decision of the governing body to the commission. This subsection does not apply to a municipally owned utility, but does include privately owned utilities operating within the corporate limits of a municipality. An appeal under this subsection may be initiated by filing with the commission a petition signed by a responsible official of the party to the rate proceeding or its authorized representative and by serving a copy of the petition on all parties to the original proceeding. The petition should be filed in accordance with Chapter 22 of this title (relating to Procedural Rules). The appeal must be initiated within 90 days after the date of notice of the final decision of the governing body, or within 30 days if the appeal relates to the rates of a Class A utility, by filing a petition for review with the commission and by serving a copy of the petition on all parties to the original rate proceeding.

(b) An appeal under Texas Water Code (TWC) §13.043(b) must be initiated within 90 days after the effective date of the rate change or, if appealing under TWC §13.043(b)(2) or (5), within 90 days after the date on which the governing body of the municipality or affected county makes a final decision. An appeal is initiated by filing a petition for review with the commission and by sending a copy of the petition to the entity providing service and with the governing body whose decision is being appealed if it is not the entity providing service. The petition must be signed by the lesser of 10,000 or 10% of the ratepayers whose rates have been changed and who are eligible to appeal under subsection (c) of this section.

(c) Retail ratepayers of the following entities may appeal the decision of the governing body of the entity affecting their water utility, sewer utility, or drainage rates to the commission:

(1) a nonprofit water supply or sewer service corporation created and operating under TWC, Chapter 67;

(2) a utility under the jurisdiction of a municipality inside the corporate limits of the municipality;

(3) a municipally owned utility, if the ratepayers reside outside the corporate limits of the municipality, including a decision of a governing body that results in an increase in rates when the municipally owned utility takes over the provision of service to ratepayers previously served by another retail public utility;

(A) A municipally owned utility must:

(i) disclose to any person, on request, the number of ratepayer(s) who reside outside the corporate limits of the municipality; and

(ii) subject to subparagraph (B) of this paragraph, provide to any person, on request, a list of the names and addresses of the ratepayers who reside outside the corporate limits of the municipality.

(B) If a ratepayer has requested that a municipally owned utility keep the ratepayer's personal information confidential under Tex. Util. Code §182.052, the municipally owned utility may not disclose the address of the ratepayer under subparagraph (A)(ii) of this paragraph to any person. A municipally owned utility must inform ratepayers of their right to request that their personal information be kept confidential under Tex. Util. Code §182.052 in any notice provided under the requirement of TWC §13.043(i).

(C) In complying with this subsection, the municipally owned utility:

(i) may not charge a fee for disclosing the information under subparagraph (A)(i) of this paragraph;

(ii) will provide information requested under subparagraph (A)(i) of this paragraph by telephone or in writing as preferred by the person making the request; and

(iii) may charge a reasonable fee for providing information under subparagraph (A)(ii) of this paragraph.

(D) Paragraph (3) of this subsection does not apply to a municipally owned utility that takes over the provision of service to ratepayers previously served by another retail public utility if the municipally owned utility:

(i) takes over the service at the request of the ratepayer;

(ii) takes over the service in the manner provided by TWC Chapter 13, Subchapter H; or

(iii) is required to take over the service by state law, an order of the Texas Commission on Environmental Quality, or an order of the commission.

(4) a district or authority created under Article III, §52, or Article XVI, §59 of the Texas Constitution, that provides water or sewer service to household users;

(5) a utility owned by an affected county, if the ratepayers' rates are actually or may be adversely affected. For the purposes of this subchapter, ratepayers who reside outside the boundaries of the district or authority will be considered a separate class from ratepayers who reside inside those boundaries; and

(6) in an appeal under this subsection, the retail public utility must provide written notice of hearing to all affected customers in a form prescribed by the commission.

(d) In an appeal under TWC §13.043(b), each person receiving a separate bill is considered a ratepayer, but one person may not be considered more than one ratepayer regardless of the number of bills the person receives. The petition for review is considered properly signed if signed by a person, or the spouse of the person, in whose name utility service is carried.

(e) The commission will hear an appeal under this section de novo and fix in its final order the rates the governing body should have fixed in the action from which the appeal was taken. The commission may:

(1) in an appeal under TWC §13.043(a), include reasonable expenses incurred in the appeal proceedings;

(2) in an appeal under TWC §13.043(b), include reasonable expenses incurred by the retail public utility in the appeal proceedings;

(3) establish the effective date;

(4) order refunds or allow surcharges to recover lost revenues;

(5) consider only the information that was available to the governing body at the time the governing body made its decision and evidence of reasonable expenses incurred in the appeal proceedings; or

(6) establish interim rates to be in effect until a final decision is made.

(f) A retail public utility that receives water or sewer service from another retail public utility or political subdivision of the state, including an affected county, may appeal to the commission, a decision of the provider of water or sewer service affecting the amount paid for water or sewer service. An appeal under this subsection must be initiated within 90 days after notice of the decision is received from the provider of the service by filing a petition by the retail public utility.

(g) An applicant requesting service from an affected county or a water supply or sewer service corporation may appeal to the commission a decision of the county or water supply or sewer service corporation affecting the amount to be paid to obtain service other than the regular membership or tap fees. An appeal under TWC §13.043(g) must be initiated within 90 days after written notice of the amount to be paid to obtain service is provided to the service applicant or member of the decision of an affected county or water supply or sewer service corporation affecting the amount to be paid to obtain service as requested in the applicant's initial request for that service.

(1) If the commission finds the amount charged to be clearly unreasonable, it will establish the fee to be paid and will establish conditions for the applicant to pay any amount(s) due to the affected county or water supply or sewer service corporation. Unless otherwise ordered, any portion of the charges paid by the applicant that exceed the amount(s) determined in the commission's order must be refunded to the applicant within 30 days of the date the commission issues the order, at an interest rate determined by the commission.

(2) In an appeal brought under this subsection, the commission will affirm the decision of the water supply or sewer service corporation if the amount paid by the applicant or demanded by the water supply or sewer service corporation is consistent with the tariff of the water supply or sewer service corporation and is reasonably related to the cost of installing on-site and off-site facilities to provide service to that applicant, in addition to the factors specified under subsection (i) of this section.

(3) A determination made by the commission on an appeal from an applicant for service from a water supply or sewer service corporation under this subsection is binding on all similarly situated applicants for service, and the commission may not consider other appeals on the same issue until the applicable provisions of the tariff of the water supply or sewer service corporation are amended.

(h) The commission may, on a motion by the commission staff or by the appellant under subsection (a), (b), or (f) of this section, establish interim rates to be in effect until a final decision is made.

(i) In an appeal under this section, the commission will ensure that every appealed rate is just and reasonable. Rates must not be unreasonably preferential, prejudicial, or discriminatory but must

be sufficient, equitable, and consistent in application to each class of customers. The commission will use a methodology that preserves the financial integrity of the retail public utility. To the extent of a conflict between this subsection and TWC §49.2122, TWC §49.2122 prevails.

(j) A customer of a water supply corporation may appeal to the commission a water conservation penalty. The customer must initiate an appeal under TWC §67.011(b) within 90 days after the customer receives written notice of the water conservation penalty amount from the water supply corporation per its tariff. The commission will approve the water supply corporation's water conservation penalty if:

(1) the penalty is clearly stated in the tariff;

(2) the penalty is reasonable and does not exceed six times the minimum monthly bill in the water supply corporation's current tariff; and

(3) the water supply corporation has deposited the penalty in a separate account dedicated to enhancing water supply for the benefit of all of the water supply corporation's customers.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 14, 2023.

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Public Utility Commission of Texas

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For further information, please call: (512) 936-7322

## TITLE 19. EDUCATION

### PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

#### CHAPTER 231. REQUIREMENTS FOR PUBLIC SCHOOL PERSONNEL ASSIGNMENTS

The State Board for Educator Certification (SBEC) adopts amendments to 19 Texas Administrative Code (TAC) §§231.77, 231.79, 231.173, 231.271, 231.301, 231.381, 231.421, 231.423, 231.463, 231.483, and 231.563; new §231.221 and 231.385; and the repeal of §231.175, concerning requirements for public school personnel assignments. The rule actions are adopted without changes since published as proposed in the June 2, 2023 issue of the *Texas Register* (48 TexReg 2804) and will not be republished. The adopted revisions incorporate courses approved by the State Board of Education (SBOE), add certificate areas to the list of credentials appropriate for placement into an assignment, and incorporate technical edits where needed to improve readability and align citations.

REASONED JUSTIFICATION: The SBEC rules in 19 TAC Chapter 231 establish the personnel assignments that correlate with appropriate certifications and are organized as follows: Subchapter A, Criteria for Assignment of Public School Personnel; Subchapter B, Prekindergarten-Grade 6 Assignments; Subchapter C, Grades 6-8 Assignments; Subchapter

D, Electives, Disciplinary Courses, Local Credit Courses, and Innovative Courses, Grades 6-12 Assignments; Subchapter E, Grades 9-12 Assignments, Subchapter F, Special Education-Related Services Personnel Assignments, and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments.

These subchapters offer guidance to school districts and educators by providing the list of courses by grade level and subject area and identifying the corresponding certificates and other requirements for placement of individuals into classroom and/or campus assignments.

Adopted revisions to 19 TAC Chapter 231, Subchapter C and Subchapter E, are described below.

#### *Subchapter C. Grades 6-8 Assignments*

##### *Titles, Assignments, and Technical Changes*

##### **§231.77. Technology Applications, Grades 6-8**

The adopted amendment adds Mathematics/Physical Science/Engineering: Grades 6-12 and Mathematics/Physical Science/Engineering: Grades 8-12 to the list of certificates appropriate to teach Technology Applications, Grades 6-8.

##### **§231.79. Career Development, Grades 6-8**

The adopted amendment adds the new SBOE-approved course, Career and College Exploration, Grades 6-8, and deletes the two courses repealed by the SBOE: College and Career Readiness, Grades 6-8, and Investigating Careers, Grades 6-8. The adopted amendment also adds Mathematics/Physical Science/Engineering: Grades 6-12 and Mathematics/Physical Science/Engineering: Grades 8-12 to the list of certificates appropriate to teach middle school courses for Career Development, Grades 6-8.

#### *Subchapter E. Grades 9-12 Assignments*

##### *Titles, Assignments, and Technical Changes*

##### *Division 3. Social Studies, Grades 9-12 Assignments.*

The adopted amendment to §231.173, Economics with Emphasis on the Free Enterprise System and Its Benefits, Grades 9-12, updates the title to "Economics and Personal Financial Literacy, Grades 9-12" to incorporate additional course listings from §231.175, Personal Financial Literacy, Grades 9-12, and adds the SBOE-approved course, Economics and Personal Financial Literacy, into rule. The list of certificates approved as appropriate to teach these courses and already presented in rule would remain unchanged.

The adoption repeals §231.175, Personal Financial Literacy, Grades 9-12, as the information from the section has been incorporated in the changes to §231.173, referenced above.

##### *Division 5. Science, Grades 9-12 Assignments.*

Adopted new §231.221, Specialized Topics in Science, Grades 9-12, adds this new SBOE-approved course into rule and identifies the list of certificates appropriate to teach the course.

##### *Division 9. Career Development, Grades 9-12 Assignments.*

The adopted amendment to §231.271, Career Development, Grades 9-12, subsection (a), adds Mathematics/Physical Science/Engineering: Grades 6-12 and Mathematics/Physical Science/Engineering: Grades 8-12 to the list of certificates appropriate for the specified assignments.

##### *Division 11. Architecture and Construction, Grades 9-12 Assignments.*

The adopted amendment to §231.301, Principles of Architecture; Principles of Construction, Grades 9-12, adds "any vocational agriculture certificate" to the list of certificates appropriate for the specified assignments.

##### *Division 14. Education and Training, Grades 9-12 Assignments.*

The adopted amendment to §231.381, Education and Training, Grades 9-12, adds the new SBOE-approved course, Communication and Technology in Education, Grades 9-12, into rule. All remaining information remains the same as the certificates listed in rule are appropriate to teach the new course being added.

Adopted new §231.385, Child Development, Child Guidance, or Child Development Associates Foundation, Grades 9-12, adds three new SBOE-approved courses, Child Development, Grades 9-12; Child Guidance, Grades 9-12; and Child Development Associates Foundation, Grades 9-12, into rule and specifies the certificates appropriate to serve in these assignments.

##### *Division 17. Health Science, Grades 9-12 Assignments.*

The adopted amendment to §231.421, Health Science, Grades 9-12, updates subsection (a) to add the new SBOE-approved course, Pharmacy I, Grades 9-12, and the Medical Assistant, Grades 9-12, course already established in rule. The adoption deletes the Medical Assistant, Grades 9-12, course reference in subsection (b) and adds the new SBOE-approved course, Practicum in Nursing, Grades 9-12, to subsection (c). All remaining information remains the same as the certificates listed in rule are appropriate to teach the new courses being added.

The adopted amendment to §231.423, Anatomy and Physiology, Medical Microbiology, Pathophysiology, and Respiratory Therapy I, Grades 9-12, updates the title to include the Respiratory II course. All remaining information remains the same as the certificates listed in rule are appropriate to teach the new course being added.

##### *Division 19. Human Services, Grades 9-12 Assignments.*

The adopted amendment to §231.463, Lifetime Nutrition and Wellness, Grades 9-12, adds Health: Early Childhood-Grade 12 to the list of certificates appropriate for the specified assignment. All remaining information is renumbered to reflect this update.

##### *Division 20. Information Technology, Grades 9-12 Assignments.*

The adopted amendment to §231.483, Digital Media, Grades 9-12, adds "any marketing certificate" to the list of certificates appropriate for the specified assignments. All remaining information is renumbered to reflect this update.

##### *Division 24. Science, Technology, Engineering, and Mathematics, Grades 9-12 Assignments.*

The adopted amendment to §231.563, Principles of Biosciences, Grades 9-12, adds Life Science: Grades 7-12 and Life Science: Grades 8-12, Legacy Master Science Teacher (Grades 8-12), Science: Grades 7-12 and Science: Grades 8-12, Secondary Biology (Grades 6-12), Secondary Science (Grades 6-12), and Secondary Science, Composite (Grades 6-12), to the list of certificates appropriate to teach this course.

SUMMARY OF COMMENTS AND RESPONSES. The public comment period on the proposal began June 2, 2023, and ended July 3, 2023. The SBEC also provided an opportunity for regis-

tered oral and written comments on the proposal during the July 21, 2023 meeting's public comment period in accordance with the SBEC board operating policies and procedures. The following public comment was received on the proposal.

Comment: An individual commented that the proposal is making it more difficult for public school teachers to gain certification and remain in the classroom.

Response: The SBEC neither agrees nor disagrees. This comment is outside the scope of Chapter 231 and this proposed rule-making.

The State Board of Education (SBOE) took no action on the review of the amendments to 19 TAC §§231.77, 231.79, 231.173, 231.271, 231.301, 231.381, 231.421, 231.423, 231.463, 231.483, and 231.563; new §231.221 and §231.385; and the repeal of §231.175 at the September 1, 2023 SBOE meeting.

## SUBCHAPTER C. GRADES 6-8 ASSIGNMENTS

### 19 TAC §231.77, §231.79

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 475-1497



## SUBCHAPTER E. GRADES 9-12 ASSIGNMENTS

### DIVISION 3. SOCIAL STUDIES, GRADES 9-12 ASSIGNMENTS

#### 19 TAC §231.173

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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#### 19 TAC §231.175

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC,

Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## DIVISION 5. SCIENCE, GRADES 9-12 ASSIGNMENTS

### 19 TAC §231.221

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## DIVISION 9. CAREER DEVELOPMENT, GRADES 9-12 ASSIGNMENTS

### 19 TAC §231.271

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## DIVISION 11. ARCHITECTURE AND CONSTRUCTION, GRADES 9-12 ASSIGNMENTS

**19 TAC §231.301**

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Cristina De La Fuente-Valadez  
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State Board for Educator Certification  
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**DIVISION 14. EDUCATION AND TRAINING, GRADES 9-12 ASSIGNMENTS**

**19 TAC §231.381, §231.385**

STATUTORY AUTHORITY. The amendment and new section are adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, includ-

ing emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment and new section implement Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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**DIVISION 17. HEALTH SCIENCE, GRADES 9-12 ASSIGNMENTS**

**19 TAC §231.421, §231.423**

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## DIVISION 19. HUMAN SERVICES, GRADES 9-12 ASSIGNMENTS

### 19 TAC §231.463

**STATUTORY AUTHORITY.** The amendment is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## DIVISION 20. INFORMATION TECHNOLOGY, GRADES 9-12 ASSIGNMENTS

### 19 TAC §231.483

**STATUTORY AUTHORITY.** The amendment is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator,

educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## DIVISION 24. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS, GRADES 9-12 ASSIGNMENTS

### 19 TAC §231.563

**STATUTORY AUTHORITY.** The amendment is adopted under Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.064, which requires the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a

designation of "legacy" to each master teacher certificate issued and to recognize these certificates until they expire.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §§21.003(a), 21.031(a); 21.041(b)(1) and (2); and 21.064.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## TITLE 22. EXAMINING BOARDS

### PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

#### CHAPTER 511. ELIGIBILITY

#### SUBCHAPTER B. CERTIFICATION BY EXAMINATION

##### 22 TAC §511.22

The Texas State Board of Public Accountancy adopts an amendment to §511.22 concerning Initial Filing of the Application of Intent, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4053) and will not be republished.

The Public Accountancy Act has changed effective September 1, 2023. The Act, as amended, permits CPA candidates to take the CPA exam with 120 semester hours of college course work. The Act had required 150 semester hours. There are candidates with applications pending with the Board that have chosen to withdraw their applications so that they are now eligible to take the exam after September 1, 2023 with 120 hours. For those candidates that choose to do so, the \$20.00 application fee will be waived since they have already included the fee in their current application.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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### SUBCHAPTER C. EDUCATIONAL REQUIREMENTS

##### 22 TAC §511.52

The Texas State Board of Public Accountancy adopts an amendment to §511.52 concerning Recognized Institutions of Higher Education, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4054) and will not be republished.

Some semester hour course work may not be accepted by the Board to support an application to take the CPA exam. The Board is the authority in making that decision with advice from the University of Texas at Austin. The rule identifies four organizations and assessment methods that the Board will not accept as support to constitute the education necessary for a candidate to sit for the CPA exam.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



##### 22 TAC §511.53

The Texas State Board of Public Accountancy adopts an amendment to §511.53 concerning Evaluation of International Education Documents, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4056) and will not be republished.

The adopted rule addresses a revision to the Public Accountancy Act that lowers the number of college level courses needed to be eligible to take the CPA exam. The Board is adopting the rule in order for candidates to know the requirements to sit for the exam.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## 22 TAC §511.54

The Texas State Board of Public Accountancy adopts an amendment to §511.54 concerning Recognized Texas Community Colleges, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4057) and will not be republished.

The Public Accountancy is being revised to permit CPA candidates to take the CPA exam with 120 semester hours of college course work. This rule is being revised to effect the statutory change so that the number of upper level accounting courses required to take the exam will be reduced from 30 semester hours to 21 semester hours effective September 1, 2023.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## 22 TAC §511.56

The Texas State Board of Public Accountancy adopts an amendment to §511.56 concerning Educational Qualifications under the Act, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4058) and will not be republished.

One major effect of this rule revision is to allow candidates to take the CPA exam with 21 upper level accounting semester hours. The three semester hour ethics course is being eliminated from eligibility to take the exam. This allows candidates to take the exam earlier than the current law allows. The three semester hour ethics course will be required prior to certification.

One commenter asked for clarification regarding the required ethics class. Commenter understood that the ethics class would not be used for satisfying the 120 hours needed to sit for the exam. Commenter posed the question as to whether the ethics class could be used toward the 24 hours of business classes needed for licensing.

Response: It was the committee's intent that the ethics class not be applied toward the number of hours needed for business classes.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## TAC 22 §511.58

The Texas State Board of Public Accountancy adopts an amendment to §511.58 concerning Definitions of Related Business Subjects to take the UCPAE, with changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4062). The rule will be republished.

As a result of the proposed revisions to the Public Accountancy Act, an ethics course is no longer being required prior to tak-

ing the exam at 120 hours and is being relocated to Board Rule 511.161. The adopted revision also identifies certain organizations and assessment methods that will not be accepted by the Board to qualify a candidate to sit for the exam.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§511.58. *Definitions of Related Business Subjects to take the UCPAE.*

(a) Related business courses are those business courses that a board recognized institution of higher education accepts for a business baccalaureate or higher degree by that educational institution.

(b) An individual who holds a baccalaureate or higher degree from a recognized educational institution as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education) may take related business courses from four-year degree granting institutions, or recognized community colleges, provided that all such institutions are recognized by the board as defined by §511.52 or §511.54 of this chapter (relating to Recognized Texas Community Colleges). Related business courses taken at a recognized community college are only the courses that the board has reviewed and approved to meet this section.

(c) The board will accept no fewer than 24 semester credit hours of upper level courses (for the purposes of this subsection, economics and statistics at any college level will count as upper division courses) as related business subjects (without repeat), taken at a recognized educational institution shown on official transcripts or accepted by a recognized educational institution for purposes of obtaining a baccalaureate degree or its equivalent, in the following areas.

(1) No more than 6 credit semester hours taken in any of the following subject areas may be used to meet the minimum hour requirement:

- (A) business law, including study of the Uniform Commercial Code;
- (B) economics;
- (C) management;
- (D) marketing;
- (E) business communications;
- (F) statistics and quantitative methods;
- (G) information systems or technology; and
- (H) other areas related to accounting.

(2) No more than 9 credit semester hours taken in any of the following subject areas may be used to meet the minimum hour requirement:

- (A) finance and financial planning; and
- (B) data analytics, data interrogation techniques, cyber security and/or digital acumen in the accounting context, whether taken in the business school or in another college or university program, such as the engineering, computer science, information systems, or math programs (while data analytic tools may be used in the course, application of the tools should be the primary objective of the course).

(d) The board requires that a minimum of 2 upper level semester credit hours in accounting communications or business communications with an intensive writing curriculum be completed. The semester hours may be obtained through a standalone course or offered through an integrated approach. If the course content is offered through integration, the university must advise the board of the course(s) that contain the accounting communications or business communications content. The course may be used toward the 24 semester credit hours of upper level business courses listed in subsection (c)(1) of this section.

(e) Credit for hours taken at recognized institutions of higher education using the quarter system shall be counted as 2/3 of a semester hour for each hour of credit received under the quarter system.

(f) Related business courses completed through and offered by an extension school, correspondence school, or continuing education program of a board recognized educational institution may be accepted by the board, provided that the courses are accepted for a business baccalaureate or higher degree conferred by that educational institution.

(g) The board may review the content of business courses and determine if they meet the requirements of this section.

(h) Credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:

- (1) American College Education (ACE);
- (2) Prior Learning Assessment (PLA);
- (3) Defense Activity for Non-Traditional Education Support (DANTES); and
- (4) Defense Subject Standardized Test (DSST).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## 22 TAC §511.59

The Texas State Board of Public Accountancy adopts an amendment to §511.59 concerning Definition of 150 Semester Hours, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4064) and will not be republished.

The rules implement the revisions to the Public Accountancy Act to permit the CPA candidate to sit for the exam with 120 semester hours of college course work. The number of upper level accounting courses is reduced to 21, the 3 hours of ethics is relocated to Board Rule 511.161, the credit hours of undergraduate or graduate independent study and/or internship courses is relocated to Board Rule 511.164, and the proposed revision

also identifies certain organizations and assessment methods that will not be accepted by the Board to qualify a candidate to sit for the exam.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## 22 TAC §511.60

The Texas State Board of Public Accountancy adopts an amendment to §511.60 concerning Qualified Accounting Courses Prior to January 1, 2024, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4065) and will not be republished.

The adopted rules implement the proposed revisions to the Public Accountancy Act to permit the CPA candidate to sit for the exam with 120 semester hours of college course work. The number of upper level accounting courses is reduced to 21, the 3 hours of ethics is relocated to Board Rule 511.161 and the proposed revision also identifies certain organizations and assessment methods that will not be accepted by the Board to qualify a candidate to sit for the exam.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## SUBCHAPTER D. CPA EXAMINATION

### 22 TAC §511.73

The Texas State Board of Public Accountancy adopts an amendment to §511.73 concerning Notice to Applicant to Schedule Taking a CPA Exam Section, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4067) and will not be republished.

The AICPA, the entity administering the UCPAE (Uniform Certified Public Accountancy Act Exam), has substantially revised the exam and anticipates delays in fully implementing it. In anticipation of expected delays this agency is proposing to extend the eligibility time to take the UCPAE and pay the filing fees from 90 days to 180 days.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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### 22 TAC §511.80

The Texas State Board of Public Accountancy adopts an amendment to §511.80 concerning Granting of Credit, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4068) and will not be republished.

The AICPA, the entity administering the UCPAE (Uniform Certified Public Accounts Exam), has substantially revised the exam and anticipates delays in fully implementing it. In anticipation of expected delays this agency is proposing to extend the validity of a credit earned for passing a part of the exam from 18 months to 30 months.

In addition, the Public Accountancy Act has been amended to permit CPA candidates to take the UCPAE with 120 semester

hours of coursework. In order to avoid candidates unnecessarily delaying completion of their application for certification, the rule amendment proposes to set a time limit of 36 months from the time all sections of the exam have been passed. Also, one point of grammar and one word were replaced for clarity.

Commenter suggested that the rule be effective retroactively to April 21, 2023. This is the date the NASBA Board of Directors voted to adopt the proposed model rule extension. Commenter suggested the retroactive date to prevent students from losing credit before the effective date of the rule.

Response: The current rule, and the proposed rule, provides the Executive Director with the authority to extend the expiration of a test score to provide uniformity with other state regulatory authorities or for reasonably unforeseeable or uncontrollable events. His concern can be addressed with a request to the Executive Director for a waiver.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## 22 TAC §511.83

The Texas State Board of Public Accountancy adopts an amendment to §511.83 concerning Granting of Credit by Transfer of Credit, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4070) and will not be republished.

An applicant receiving credit for having passed one of the parts of the exam will have 30 months to pass the remaining sections of the exam. This time frame is proposed to be extended from 18 months to 30 months in anticipation of likely delays in the recently revised exam.

Commenter suggested that the rule be effective retroactively to April 21, 2023. This is the date the NASBA Board of Directors voted to adopt the proposed model rule extension. The retroactive date is suggested to prevent students from losing credit before the effective date of the rule.

Response: The current rule, and the proposed rule, provides the Executive Director with the authority to extend the expiration of a test score to provide uniformity with other state regulatory authorities or for reasonably unforeseeable or uncontrollable events. His concern can be addressed with a request to the Executive Director for a waiver.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 305-7842



## SUBCHAPTER F. EXPERIENCE REQUIREMENTS

### 22 TAC §511.122

The Texas State Board of Public Accountancy adopts an amendment to §511.122 concerning Acceptable Work Experience, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4071) and will not be republished.

The credit received for the internship programs will apply to satisfy the requirement for work experience.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## SUBCHAPTER H. CERTIFICATION

### 22 TAC §511.161

The Texas State Board of Public Accountancy adopts an amendment to §511.161 concerning Qualifications for Issuance of a Certificate, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4073) and will not be republished.

The Board has removed the 3 semester hours of an ethics course in order to take the UCPAE with 120 hours. The proposed rule revision makes it clear that the 3 hours of ethics course work is required in order to become licensed and certified.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## 22 TAC §511.164

The Texas State Board of Public Accountancy adopts new rule §511.164 concerning Definition of 150 Semester Hours to Qualify for Issuance of a Certificate, with changes to the proposed text to correct punctuation, as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4074). The rule will be republished.

This adopted new rule establishes the criteria for obtaining a license and certificate to become a CPA in Texas. It establishes the number of upper level accounting courses required at 27 plus a three-hour ethics course, maintains the advanced business course hours at 24 semester hours, maintains the minimum number of semester hours at 150, maintains the 3 semester hours of accounting or business ethics course work and identifies course work that does not qualify a candidate to become licensed and certified.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§511.164. *Definition of 150 Semester Hours to Qualify for Issuance of a Certificate.*

(a) To qualify for the issuance of a CPA certificate, an applicant must hold at a minimum a baccalaureate degree, conferred by a board-recognized institution of higher education as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education), and have completed the board-recognized coursework identified in this section:

(1) no fewer than 27 semester hours or quarter-hour equivalents of upper level accounting courses as defined by §511.57 of this chapter (relating to Qualified Accounting Courses to take the UCPAE) or §511.60 of this chapter (relating to Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE);

(2) no fewer than 24 semester hours or quarter-hour equivalents of upper level related business courses, as defined by §511.58 of this chapter (relating to Definitions of Related Business Subjects to take the UCPAE);

(3) a three semester hour board-approved standalone course in accounting or business ethics. The course must be taken at a recognized educational institution and should provide students with a framework of ethical reasoning, professional values, and attitudes for exercising professional skepticism and other behavior in the best interest of the public and profession. The ethics course shall:

(A) include the ethics rules of the AICPA, the SEC, and the board;

(B) provide a foundation for ethical reasoning, including the core values of integrity, objectivity, and independence; and

(C) be taught by an instructor who has not been disciplined by the board for a violation of the board's rules of professional conduct, unless that violation has been waived by the board; and

(4) academic coursework at an institution of higher education as defined by §511.52 of this chapter, when combined with paragraphs (1) - (3) of this subsection meets or exceeds 150 semester hours, of which 120 semester hours meets the education requirements defined by §511.59 of this chapter (relating to Definition of 120 Semester Hours to take the UCPAE). An applicant who has met paragraphs (1) - (3) of this subsection may use a maximum of 9 total semester credit hours of undergraduate or graduate independent study and/or internships as defined in §511.51(b)(4) or §511.51(b)(5) of this chapter (relating to Educational Definitions) to meet this paragraph. The courses shall consist of:

(A) a maximum of three semester credit hours of independent study courses; and

(B) a maximum of six semester credit hours of accounting/business course internships.

(b) The following courses, courses of study, certificates, and programs may not be used to meet the 150 semester hour requirement:

(1) any CPA review course offered by an institution of higher education or a proprietary organization;

(2) remedial or developmental courses offered at an educational institution; and

(3) credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirement of this chapter:

(A) American College Education (ACE);

(B) Prior Learning Assessment (PLA);

(C) Defense Activity for Non-Traditional Education Support (DANTES); and

(D) Defense Subject Standardized Test (DSST).

(c) The hours from a course that has been repeated will be counted only once toward the required semester hours.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## CHAPTER 520. PROVISIONS FOR THE FIFTH-YEAR ACCOUNTING STUDENTS SCHOLARSHIP PROGRAM

### 22 TAC §520.1

The Texas State Board of Public Accountancy adopts an amendment to §520.1 concerning Authority and Purpose, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4075) and will not be republished.

H.B. 2217, 88th Legislative Session eliminated the restriction that the scholarship fund would only be available to fifth year accounting students. The rule is proposed to be amended to delete any reference to "fifth year" students.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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### 22 TAC §520.3

The Texas State Board of Public Accountancy adopts an amendment to §520.3 concerning Institutions, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4076) and will not be republished.

Recently adopted legislation revises the Fifth Year Accounting Student Scholarship Fund, as provided in the Public Accountancy Act, to open up the scholarship fund to accounting students with 15 hours of upper level accounting courses. Currently an accounting student must be in their fifth year of accounting.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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### 22 TAC §520.4

The Texas State Board of Public Accountancy adopts an amendment to §520.4 concerning Eligible Students, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4078) and will not be republished.

Recently adopted legislation increases the availability of the scholarship fund to more accounting students. To be eligible, the student may be an undergraduate student. The rule makes it clear that a student is not eligible if they already have sufficient hours to be certified.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## 22 TAC §520.5

The Texas State Board of Public Accountancy adopts an amendment to §520.5 concerning Award Amounts and Uses, without changes to the proposed text as published in the July 28, 2023 issue of the *Texas Register* (48 TexReg 4079) and will not be republished.

The proposed rule establishes the period of a scholarship to be no more than three years.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## CHAPTER 521. FEE SCHEDULE

### 22 TAC §521.14

The Texas State Board of Public Accountancy adopts an amendment to §521.14 concerning Eligibility Fee, without changes to the proposed text as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4080) and will not be republished.

The AICPA has substantially revised the UCPAE. This rule identifies the effective date of the revisions as January 1, 2024, and identifies the six disciplines that will be on the exam.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 511. LIMITED SERVICES RURAL HOSPITALS

The Texas Health and Human Services Commission (HHSC) adopts new Chapter 511, concerning Limited Services Rural Hospitals, comprising of §§511.1 - 511.3, 511.11 - 511.17, 511.41 - 511.78, 511.111 - 511.116, 511.121, 511.141 - 511.143, and 511.161 - 511.169 in Texas Administrative Code Title 26.

New §§511.1, 511.2, 511.11 - 511.13, 511.42, 511.44 - 511.46, 511.49 - 511.52, 511.54 - 511.56, 511.60, 511.61, 511.63, 511.65, 511.67, 511.68, 511.76, 511.78, 511.111, 511.163, and 511.165 are adopted with changes to the proposed text as published in the June 16, 2023, issue of the *Texas Register* (48 TexReg 3064). These rules will be republished.

New §§511.3, 511.14 - 511.17, 511.41, 511.43, 511.47, 511.48, 511.53, 511.57 - 511.59, 511.62, 511.64, 511.66, 511.69 - 511.75, 511.77, 511.112 - 511.116, 511.121, 511.141 - 511.143, 511.161, 511.162, 511.164, and 511.166 - 511.169 are adopted without changes to the proposed text as published in the June 16, 2023, issue of the *Texas Register* (48 TexReg 3064). These rules will not be republished.

#### BACKGROUND AND JUSTIFICATION

The new sections implement Senate Bill (S.B.) 1621, 86th Legislature, Regular Session, 2019, relating to certain rural medical facilities; requiring a license; authorizing fees and taxes, which amends Texas Health and Safety Code (HSC) Chapter 241 by adding Subchapter K, relating to Limited Services Rural Hospital.

HSC §241.302(b), as added by S.B. 1621, requires HHSC to adopt rules to establish the minimum standards for limited services rural hospitals (LSRHs) and to implement licensing standards for LSRHs under HSC §241.302 if the United States Congress enacts a bill creating a payment program for LSRHs or similarly designated hospitals that becomes law.

The federal Consolidated Appropriations Act, 2021, became law on December 27, 2020, and required the Centers for Medicare and Medicaid Services (CMS) to establish a federal rural emergency hospital (REH) designation. CMS adopted federal Conditions of Participation for REHs effective January 1, 2023,

and now HHSC must adopt rules as required by HSC Section 241.302(b).

#### COMMENTS

The 31-day comment period ended July 17, 2023.

During this period, HHSC received comments regarding the proposed rules from eight commenters, including Disability Rights Texas (DRTx), Texas Academy of Physician Assistants (TAPA), Texas Hospital Association (THA), Texas Medical Association (TMA), Texas Nurses Association (TNA), Texas Nurse Practitioners (TNP), Texas Organization of Rural and Community Hospitals (TORCH), and Texas Society of Anesthesiologists (TSA). A summary of comments relating to the rules and HHSC's responses follow.

Comment: TORCH expressed support and gratitude for the emergency rules related to the REH federal designation. TORCH urged HHSC to adopt the standard rules as proposed.

Response: HHSC acknowledges this comment.

Comment: TNA and TNP recommended updating the term "advanced practice nurse practitioner" throughout the chapter, specifically in §§511.51(b)(2)(B), 511.54(d)(3), 511.60(a), and 511.60(g)(3)(D), to "advanced practice registered nurse" for clarity.

Response: HHSC revises §§511.44(m), 511.51(b)(2)(B), 511.54(d)(3), 511.60(a) and 511.60(g)(3)(D) as suggested.

Comment: DRTx recommended defining the term "legally authorized representative" in §511.2 and using the term consistently in the chapter. DRTx noted other HHSC rules use the term "legally authorized representative" to include parents of minor children and individuals assigned by the court. DRTx also recommended adding the term in §511.63(b)(8), §511.63(b)(11), §511.63(b)(21), §511.67(e)(1), and §511.67(i).

Response: HHSC revises §511.2 in response to this comment by adding a definition for "legally authorized representative" at §511.2(25) and renumbering the subsequent definitions in this section. HHSC also revises §511.63(b)(11), renumbered to §511.63(b)(10); 511.63(b)(21), renumbered to 511.63(b)(20), §511.67(e)(1), and §511.67(i) to use the term consistently as suggested. HHSC removes §511.63(b)(8) in response to another comment.

Comment: DRTx recommended amending the definition for "restraint" at §511.2(54) to include separate definitions, using 25 TAC Chapter 415, Subchapter F, as a model for manual restraint, mechanical restraint, and chemical restraint. DRTx also suggested clarifying what is not considered a restraint in accordance with 25 TAC Chapter 415, Subchapter F.

Response: HHSC declines to revise §511.2(54), renumbered to §511.2(55), because the chapter does not use the terms "mechanical restraint" or "manual restraint." Therefore, separate definitions for the terms are unnecessary.

Comment: TMA recommended replacing the definition of "telemedicine" in §511.2(59) with the definition in Texas Occupations Code §111.001 to, as TMA stated, align with the most commonly used definition in Texas statutes and regulations and to avoid uncertainty among providers about services "initiated by a physician" because this language is not used in other definitions for the term.

Response: HHSC declines to revise §511.2(59), renumbered to §511.2(60), because the definition of telemedicine is consis-

tent with other HHSC-regulated facility rules and the definition in Texas Occupations Code §111.001 is subject to change.

Comment: THA expressed appreciation for the flexibility offered by the waiver process in §511.3 and urged HHSC to adopt the rule as proposed.

Response: HHSC acknowledges this comment.

Comment: THA expressed appreciation for §511.12(b)(1) allowing HHSC the flexibility to waive the architectural inspection for currently operating qualified rural hospitals, and recommended amending the paragraph to add a provision waiving the architectural inspection requirement for hospitals that closed for a short time (e.g., 90 days or fewer) before submitting an application for an LSRH license.

Response: HHSC revises §511.12(b)(1) in response to this comment by adding a provision allowing HHSC to waive an architectural inspection for a hospital applying for an LSRH license after being closed for 90 days or fewer if HHSC determines the hospital's documentation indicates an acceptable maintenance history and facility condition. HHSC also replaces "will" with "may" regarding waiving architectural inspections for currently operating qualifying rural hospitals to allow HHSC discretion. HHSC also replaces "If applicable" with "When HHSC requires an architectural inspection" at the beginning of §511.12(b)(1) for clarity.

Comment: DRTx recommended amending §511.13(f) to require HHSC to require an LSRH to cease operations if the LSRH fails to submit the application, documents, and fee by the license expiration date.

Response: HHSC revises §511.13(f) in response to this comment by replacing "may" with "shall."

Comment: DRTx recommended amending §511.14(a) to require HHSC to automatically close an LSRH facility that does not offer services for more than 60 days.

Response: HHSC declines to revise §511.14(a) as it is within HHSC authority to exercise discretion in determining whether to close a facility if the facility does not offer services for more than 60 days without a written inactive status request and because HHSC prefers to maintain flexibility when determining whether to close a facility.

Comment: TMA recommended amending §511.41(a) to reflect the governing body's responsibility relating to medical staff appointments as stated in the federal Conditions of Participation for REHs. TMA stated §511.41(a) should be consistent with §511.41(d)(4). TMA also recommended striking the word "control" as it could have negative implications about the medical staff's ability to exercise professional medical judgement relating to a patient's health care needs without financial or other outside pressures. TMA also suggested adding language to this subsection to require the governing body to appoint medical staff "after considering the recommendations of the existing members of the medical staff."

Response: HHSC declines to revise §511.41(a) because the language is consistent with the general and special hospital rule at §133.41(f)(1) and the definition of governing body at §511.2(20). Additionally, the governing body's responsibility relating to medical staff appointments does not prohibit taking existing staff's recommendations into account.

Comment: DRTx recommended citing all applicable regulations in §511.42(b)(1), §511.42(c)(10), and §511.47(e) instead of the general phrases "all applicable rules and standards," "applica-

ble state and federal laws," and "as defined by state law." DRTx stated facilities would be more likely to comply if the rule indicated all applicable regulations.

Response: HHSC declines to revise §511.42(b)(1), §511.42(c)(1), and §511.47(e) because these paragraphs provide sufficient notice of the regulations with which an LSRH must comply.

Comment: TMA recommended amending §511.42(c) to clarify the LSRH's written policies and procedures should comply with §511.51 and suggested HHSC add the following language to the end of the subsection's introductory sentence: "provides, with the policies for the LSRH's services being developed, reviewed, and updated in accordance with §511.51 of this subchapter (relating to Provision of Services)."

Response: HHSC revises §511.42(c) as suggested.

Comment: DRTx recommended revising §511.42(d)(6) to clarify to whom the selection criteria apply because the sentence is unclear.

Response: HHSC revises §511.42(d)(6) in response to this comment by clarifying the criteria applies to medical staff selection.

Comment: DRTx recommended revising §511.42(d)(22)(D) to expand the requirement from "evaluation of patient complaints" to "resolution and identification of any preventative steps to minimize these complaints moving forward."

Response: HHSC declines to revise §511.42(d)(22)(D) because an LSRH must measure, analyze, and track quality indicators, including patient complaints as required by §511.64(e)(4), through the quality assessment and performance improvement (QAPI) program.

Comment: DRTx expressed concern the governing body's role and oversight may not be meaningful because §511.42(i) requires the governing body to meet at least annually. DRTx stated it may be unrealistic for a governing body to research and address all issues the body is responsible for addressing in a timely manner if the body only meets annually. DRTx also stated the governing body's ability to fulfill the requirements under §511.64(k) is questionable because they are only required to meet annually under §511.42(i).

Response: HHSC declines to revise §511.42(i) because the governing body is required in §511.42(d)(12) to quarterly review and monitor QAPI activities.

Comment: TMA recommended amending §511.42(l) to require input from medical staff because the responsibilities under this subsection relate to medical staff appointments and privileges. TMA recommended language to recognize the role of medical staff and qualified medical personnel as set forth in the Conditions of Participation for REHs.

Response: HHSC declines to revise 511.42(l) because §511.42(d)(4) requires the governing body to consider existing medical staff member recommendations when appointing members of the medical staff, and it is within an LSRH's authority to determine how the governing body assigns or limits medical privileges.

Comment: DRTx expressed concern with §511.42(m) only requiring the governing body to encourage personnel to participate in relevant continuing education and recommended amending the subsection to require the governing body to require personnel to participate in continuing education.

Response: HHSC declines to revise §511.42(m) because licensing boards determine continuing education requirements, and HHSC does not have the statutory authority to mandate continuing education for individuals with licenses that HHSC does not regulate.

Comment: DRTx stated the use of the term "complaint" in §511.42, §511.44(g), §511.63(3), and §511.113 is confusing because the language refers to client dissatisfaction in some instances and the patient's medical issue in others. DRTx recommended differentiating between the two uses consistently throughout the rules.

Response: HHSC revises the rules in response to this comment to use the term "reason for the visit" when referring to the patient's medical issue in §511.44(g) and replaced the term "grievance" with "complaint" in §511.63(e)(1) - (3). HHSC declines to revise §511.42 and §511.113 because the context for the term is clear in those sections.

Comment: TMA stated ordering diagnostic testing is outside the scope of professional nursing and federal and Texas laws do not allow advanced practice registered nurses (APRNs) to order diagnostic testing, but physicians may delegate such acts to qualified individuals. Therefore, TMA recommended amending §511.45(l)(2) to clarify an APRN may only order laboratory work under a physician's delegation and supervision.

TAPA expressed concern with §511.45(l)(2) because this paragraph does not list physician assistants (PAs) among the providers who may order preoperative laboratory work. TAPA recommended adding PAs and other providers that may order laboratory services to the list of providers in this paragraph. TAPA stated the current rule allows APRNs to order laboratory services and recommended allowing PAs to do so as well because both advanced practice nurses and PAs practice under the delegation and supervision of a physician. TAPA also stated PAs regularly order laboratory services in other settings.

Response: HHSC revises §511.45(l)(2) in response to these comments to indicate laboratory work shall be performed only on the order of a physician, podiatrist, dentist, or other practitioner, practicing within the scope of their license and education.

Comment: TMA expressed concern with the language in §511.46(c) regarding an APRN's scope of practice, which does not include ordering radiology services, and stated it is not clear to whom "authorized practitioner" refers. TMA recommended amending §511.46(c) to remove the reference to "authorized practitioner" and clarify an APRN can only order radiology services under the delegation and supervision of a physician.

Response: HHSC revises §511.46(c) in response to this comment to require radiologic services to be performed only on the order of a physician, podiatrist, dentist, or other practitioner who is practicing within the scope of their license and education.

Comment: TAPA expressed concern with PAs not being listed as a provider allowed to order radiology services in §511.46(c)(1). TAPA noted PAs may be included in the term "other authorized practitioner," but recommended expressly including PAs under this paragraph to avoid confusion in the facilities.

Response: HHSC revises §511.46(c)(1) in response to this comment to require radiologic services to be performed only on the order of a physician, podiatrist, dentist, or other practitioner who is practicing within the scope of their license and education.

Comment: TNA and TNP expressed concern with §511.46(c)(2) limiting the use of radioactive sources to physicians. TNA and TNP stated Texas Occupations Code §601.252 expressly allows nurses to provide radiological services and the Texas Board of Nursing rules at 22 TAC §217.4 requires nurses to register before performing radiological services. TNA and TNP recommended either removing the restriction on nurses from §511.46(c)(2) or clarifying that physicians may delegate radiological services and assessments as necessary.

TAPA expressed similar concerns with §511.46(c)(2) limiting the use of radioactive sources to physicians. TAPA stated PAs are trained and qualified to use radioactive sources and provide radiology services. TAPA also noted there are no similar restrictions in existing general and special hospital rules.

Response: HHSC declines to revise §511.46(c)(2) because radioactive sources are specific to nuclear medicine and do not include all radiologic services.

Comment: TMA expressed concern with §511.46(h) and stated the language is too prescriptive and could prevent a radiologist's input where such input may be helpful, but not strictly necessary. TMA recommended removing the word "only" from this subsection to address this concern.

Response: HHSC revises §511.46(h) in response to this comment by removing the words "only those."

Comment: TNA and TNP expressed concern with §511.46(j) requiring a physician to read, date, sign, and authenticate all examination reports. TNA and TNP recommended either removing the restriction on nurses from §511.46(j) or clarifying physicians may delegate radiological services and assessments as necessary.

Response: HHSC revises §511.46(j) in response to this comment by clarifying that in addition to a physician, another practitioner within the scope of their license and education, may read, date, sign, and authenticate examination reports.

Comment: DRTx recommended adding language to §511.48 to identify who performs an investigation into abuse and neglect issues, clarify whether an LSRH must perform an internal investigation before HHSC's investigation, and clarify the facility's responsibility to identify and secure evidence. DRTx also recommended requiring an LSRH to separate the alleged victim from the alleged perpetrator pending the investigation's outcome to prevent evidence contamination and witness intimidation and to reduce the victim's fear or trauma. DRTx stated it is necessary to also address any trauma or fear the alleged victim experiences.

Response: HHSC declines to revise §511.48 because the rule aligns with existing rules at 25 TAC Chapter 1, Subchapter Q, relating to Investigations of Abuse, Neglect, or Exploitation of Children or Elderly or Disabled Persons.

Comment: DRTx recommended adding "training" to §511.48(b)(2)(B)(i) to clarify the proper use of restraints or seclusion must be in accordance with state and federal laws and training on how to correctly perform a restraint.

Response: HHSC declines to revise §511.48(b)(2)(B)(i) because §511.48(b)(2)(B)(i) is part of the "abuse of an elderly or disabled person" definition, which aligns with 25 TAC §1.204(a)(2) and is consistent with Texas Human Resources Code §48.002(2).

Comment: DRTx recommended adding language to §511.48(e) requiring staff to intervene when appropriate if they witness a

patient being abused or neglected. DRTx also recommended adding language to §511.48(e) clarifying staff who fail to intervene are subject to disciplinary action.

Response: HHSC declines to revise §511.48(e) because failure to intervene in such a situation meets the abuse and neglect definitions in this section. A health care professional's licensing body has the authority to address instances of abuse or neglect, including failure to intervene.

Comment: TMA recommended adding language to §511.49 requiring the medical director to be a physician licensed to practice medicine in Texas because it is a universal requirement in laws and regulations regarding medical director qualifications.

Response: HHSC revises §511.49 in response to this comment by adding new subsection (e), which requires a medical director to be a physician licensed to practice medicine in Texas.

Comment: TMA expressed concern with §511.50(d) allowing a podiatrist to be responsible for the organization and conduct of medical staff and stated a podiatrist's limited scope of practice may limit their ability to effectively oversee the LSRH's medical staff. TMA recommended removing "or podiatrist" in the subsection to address their concern.

Response: HHSC revises §511.50(d) in response to this comment by removing "or podiatrist" to require the medical staff to be assigned only to a physician.

Comment: TMA expressed concern with §511.50(k) using the term "emergency room practitioner," which falls under the "practitioner" definition at §511.2(41), renumbered to §511.2(42), because the definition excludes a physician. TMA recommended replacing the word "practitioner" in §511.50(k) with the word "physician."

Response: HHSC revises §511.50(k) as suggested.

Comment: TMA also recommended amending §511.50(k) to allow emergency room privileges for physicians who are board-eligible in emergency medicine because they have graduated from an accredited emergency medicine program. TMA recommended restructuring this subsection to include two paragraphs and suggested specific language.

Response: HHSC revises §511.50(k) in response to this comment to structure the subsection to include two paragraphs as suggested to increase clarity and readability. HHSC declines to revise the language in §511.50(k)(1) because §511.50(k)(1) is consistent with the freestanding emergency medical care facility rule at §131.44(d)(5). Additionally, §511.50(k)(2) allows for physicians without board certification to be privileged as an emergency room physician, provided they meet the requirements under §511.50(k)(2).

Comment: TMA recommended replacing the term "practitioner" in §511.52(c) with "dentist or podiatrist" because the Texas Occupations Code only refers to a physician, podiatrist, or dentist performing surgery to the extent within their scope of practice. TMA noted it was unclear who "practitioner" would include because the chapter definition excludes physicians, podiatrists, and dentists.

Response: HHSC revises §511.52(c)(1), (2), and (4) in response to this comment by adding the terms "dentist" and "podiatrist" and clarifying a practitioner is someone other than a physician, podiatrist, or dentist that is practicing within the scope of their license and education.

Comment: TMA expressed concern with §511.55(k) because the subsection would limit the performance of surgical procedures to a physician or practitioner. TMA recommended replacing the term "practitioner" in §511.55(k) with the specific health care professions authorized to perform surgery under the Texas Occupations Code, which include a physician, podiatrist, or dentist.

Response: HHSC revises §511.55(k) in response to this comment by adding the terms "dentist" and "podiatrist" and clarifying the practitioner is someone other than a physician, podiatrist, or dentist that is practicing within the scope of their license and education. HHSC also revises §511.55(k)(2) by adding the terms "dentist" and "podiatrist."

Comment: TAPA expressed concern with §511.55(n)(2) because this paragraph does not list PAs among the providers who may order preoperative laboratory work. TAPA recommended adding PAs and other providers that may order laboratory services to the list of providers in this paragraph. TAPA stated the current rule allows APRNs to order laboratory services and recommended allowing PAs to do so as well because both advanced practice nurses and PAs practice under the delegation and supervision of a physician. TAPA also stated PAs regularly order laboratory services in other settings.

TMA expressed similar concerns with §511.55(n)(2) and recommended amending the paragraph to clarify an APRN may only order preoperative lab work under a physician's delegation and supervision.

Response: HHSC revises §511.55(n)(2) in response to these comments to clarify preoperative laboratory work shall be performed only on the order of a physician, podiatrist, dentist, or other practitioner, practicing within the scope of their license and education.

Comment: TSA expressed concern with §511.56(d) allowing a certified registered nurse anesthetist (CRNA) to order anesthesia and sedation for delivery by a registered nurse. TSA cited Texas Occupations Code §157.001, which allows a physician to delegate certain medical acts, and stated there are no provisions in Texas Occupations Code Chapter 301, the Texas Medical Board rules, and the Texas Board of Nursing rules allowing an APRN, including a CRNA, to delegate performing a medical act to a registered nurse (RN). TSA recommended removing the language in §511.56(d) allowing a CRNA to order a registered nurse to administer topical anesthesia, local anesthesia, minimal sedation, and moderate sedation.

TMA expressed similar concerns with §511.56(d), stating the subsection is inconsistent with scope of practice limitations and requirements in Texas law because a CRNA may not delegate anesthesia administration to an RN. TMA also suggested removing language in §511.56(d) allowing an RN to administer anesthesia.

Response: HHSC revises §511.56(d) in response to these comments by clarifying that a qualified RN who is not a CRNA may administer certain anesthesia or sedation on the order of a physician, podiatrist, dentist, or other authorized practitioner practicing within the scope of their license and education and removing language allowing a CRNA to order an RN to administer anesthesia. HHSC declines to remove the language allowing a registered nurse to administer anesthesia because the language requires the registered nurse to perform the acts in accordance with all applicable Texas Board of Nursing rules, policies, directives, and guidelines.

Comment: TSA recommended amending §511.56(e) to replace "operating surgeon" with "physician" to account for an anesthesiologist or operating physician providing the anesthesia care.

Response: HHSC revises §511.56(e) as suggested.

Comment: TSA recommended amending §511.56(f) to add the American Academy of Anesthesiologist Assistants to the list of association guidelines a facility must consider when the facility develops the written anesthesia service policies and standards under this subsection.

Response: HHSC declines to revise §511.56(f) because the requested association guidelines fall under the standards applicable to licensed professionals qualified to administer anesthesia, which LSRH medical staff are required to consider when developing the written anesthesia service policies and practice guidelines.

Comment: TSA recommended amending §511.56(g)(4) to remove "RN" from the list of practitioners who can perform a post-anesthesia evaluation. TSA stated the Conditions of Participation for REHs does not include a registered nurse as a qualified anesthesia practitioner who must evaluate a patient for proper anesthesia recovery.

Response: HHSC declines to revise the rule in response to this comment. §511.56(g) requires two post-anesthesia evaluations, a post-anesthesia follow-up in (3), which aligns with the requirements of the federal Conditions of Participation for REHs, and a post-anesthesia evaluation before discharge in (4), which is not covered in the federal Conditions of Participation for REHs. The language in §511.56(g) is consistent with the general and special hospital rule at §133.41(a)(2), and HHSC has the authority under HSC §241.302(c) to adopt rules that are more stringent than the federal Conditions of Participation for REHs.

Comment: TSA recommended amending §511.56(n) to update "operating surgeon or person administering the anesthesia" to "anesthesiologist, non-anesthesiologist physician, certified registered nurse anesthetist, or certified anesthesiologist assistant" to properly reflect the titles of individuals providing the care and provide clarity to facilities.

Response: HHSC revises §511.56(n) in response to this comment by clarifying the evaluation for proper anesthesia recovery must be conducted in accordance with subsection (g) of the section.

Comment: TNA and TNP recommended replacing the term "clinical nurse specialist" in §511.60(f) with "advanced practice registered nurse" to avoid confusion as a clinical nurse specialist is one of the four APRN roles.

Response: HHSC revises §511.60(f) in response to this comment by removing the specific roles and titles of "registered nurse, clinical nurse specialist, or licensed vocational nurse" and retained the more general term, "nurse," to require a nurse to be on duty whenever the LSRH has one or more patients receiving emergency care or observation care.

Comment: DRTx recommended clarifying the responsibilities associated with §511.60(g)(1), which requires an LSRH to assign an individual to be responsible for outpatient services.

Response: HHSC declines to revise §511.60(g)(1) because it is within an LSRH's authority to determine the specific responsibilities of the individual overseeing outpatient services.

Comment: DRTx stated the term "appropriate" in §511.60(g)(2), which requires the LSRH to have appropriate physicians on staff and other professional and nonprofessional personnel available, is vague, subjective, and does not provide measurable information. DRTx recommended adding language to clarify what is meant by "appropriate" and how the term would be measured.

Response: HHSC declines to revise §511.60(g)(2) because it is within an LSRH's authority to determine what is appropriate as it applies to physicians and other personnel.

Comment: TMA recommended amending §511.60(l) to remove the requirement for a physician to evaluate a diagnosis by a nurse practitioner, clarify a physician must evaluate the assessment and treatment furnished by a nurse practitioner or a clinical nurse specialist, and clarify a physician must evaluate the working diagnosis and treatment furnished by a PA. TMA stated only a physician may make a medical diagnosis and cannot delegate the act to a nurse, diagnosis is excluded from the definition of professional nursing in the Nursing Practice Act, and a PA may formulate a working diagnosis, but only under the delegation and supervision of a physician.

Response: HHSC declines to revise §511.60(l) because the language is consistent with the federal Conditions of Participation for REHs, and nurse practitioners may diagnose and treat patients under the supervision of a physician.

Comment: TNA and TNP stated §511.60(l) seems to go beyond requirements in law and §511.60(g)(3)(D) in requiring a physician on staff or contracted by an LSRH to evaluate the quality and appropriateness of diagnosis and treatment by nurse practitioners, clinical nurse specialists, and PAs at an LSRH. TNA and TNP recommended removing §511.60(l) as APRNs are educated to diagnose and treat autonomously with delegated authority in Texas. TNA and TNP expressed concern about how this subsection could be interpreted, which may lead to delays in care.

Response: HHSC revises §511.60(l) in response to this comment to clarify a physician evaluation of the diagnosis and treatment by certain practitioners is necessary when required by law.

Comment: DRTx stated the language in §511.62(e)(3) requiring the discharge planning evaluation to include a determination of a patient's access to appropriate services the patient may need is insufficient. DRTx recommended amending the language to "determination and resolution of any identified barriers."

Response: HHSC declines to revise §511.62(e)(3) because the language is consistent with the federal Conditions of Participation for REHs.

Comment: DRTx expressed concern with §511.62(g) requiring an LSRH to develop and initially implement a discharge plan at a physician's request and stated discharge planning should begin at the time of admission.

Response: HHSC declines to revise §511.62(g) because this subsection is consistent with the federal Conditions of Participation for REHs.

Comment: DRTx recommended amending language in §511.63(b), which requires a policy to "ensure patients' rights," to clarify the policy must "ensure patient rights are respected and upheld."

Response: HHSC revises §511.63(b) in response to this comment by adding language requiring an LSRH to ensure patient's rights are upheld.

Comment: TMA recommended amending the beginning of §511.63(b)(4), (7), and (8) to read "the right to, within the limits of the law" to align with the general and special hospital rules in 25 TAC Chapter 133 and to recognize a patient's rights may be limited by the law. TMA noted the federal Conditions for Participation for hospitals and REHs relating to these rights are the same.

Response: HHSC revises §511.63(b) in response to this comment to clarify an LSRH must adopt, implement, and enforce a policy to ensure patients' rights are upheld within the limits of law. HHSC also removes "within the limits of the law" from §511.63(20), renumbered to §511.63(19), because HHSC added the phrase in §511.63(b), which applies to all paragraphs under subsection (b).

Comment: DRTx recommended amending §511.63(b)(4), which provides the right to have personal privacy, to add a patient's right to their personal possessions and a requirement that any restrictions to personal possessions should require a physician's order with a clinical justification documented in the patient's record.

Response: HHSC declines to revise §511.63(b)(4) because the language is consistent with the freestanding emergency medical care rules at 25 TAC Chapter 131 and the general and special hospital rules at 25 TAC Chapter 133. Additionally, HHSC notes an LSRH is restricted to admitting a patient for only 24 hours on average.

Comment: DRTx recommended adding "including the right to be free of inappropriate or unnecessary use of restraints, seclusion, or emergency medication" to the end of §511.63(b)(6), which states, "the right to be free from all forms of abuse, neglect, exploitation, and harassment."

Response: HHSC declines to revise §511.63(b)(6) because inappropriate or unnecessary use of restraints, seclusion, or emergency medication meets the definition of abuse or neglect in §511.48.

Comment: DRTx stated the term "reasonable" in §511.63(b)(9), which states, "the right to the LSRH's reasonable response to the patient's requests and needs for treatment or service, within the LSRH's capacity, stated mission, and applicable law and regulation," is subjective and recommended adding parameters and a timeframe for what is meant by a "reasonable response."

Response: HHSC declines to revise §511.63(b)(9), renumbered to §511.63(b)(8), because use of the term "reasonable" is consistent with its usage across other HHSC rules.

Comment: DRTx stated the patient right to considerate and respectful care in §511.63(b)(10) is subjective. DRTx recommended updating the language to "the right to be treated with respect and dignity at all times."

Response: HHSC declines to revise §511.63(b)(10), renumbered to §511.63(b)(9), because the language is consistent with the general and special hospital rules at 25 TAC Chapter 133.

Comment: DRTx recommended amending §511.63(b)(10)(B)(ii), regarding a patient's "right to considerate and respectful care," which includes the care of a dying patient optimizes the comfort and dignity of the patient through effectively managing pain," to add that a patient has the right to a timely response to their pain or discomfort complaints.

Response: HHSC declines to revise §511.63(b)(10)(B)(ii), renumbered to §511.63(b)(9)(B)(ii), because the requirement

to effectively manage pain includes responding to patient complaints about pain in a timely manner.

Comment: DRTx stated it is unclear why §511.63(b)(16) says "whenever possible," and stated the patient and LAR should routinely receive information about rights in advance of a change and particularly prior to a discontinuation of the care.

Response: HHSC declines to revise §511.63(b)(16), renumbered to §511.63(b)(15), because the language aligns with the federal Conditions of Participation for REHs.

Comment: DRTx stated the language in §511.63(b)(19), regarding the patient's right to be informed about experimentation or research affecting their care to treatment, is insufficient and recommended adding language about the patient's right to consent to such experimentation or research.

Response: HHSC revises §511.63(b)(19), renumbered to §511.63(b)(18), in response to this comment by adding language about the patient's right to consent to any human experimentation or other research or educational projects affecting their care or treatment.

Comment: DRTx stated §511.63(b)(20) is a duplication of §511.63(b)(8) and recommended deleting §511.63(b)(8) and adding the language about oral and written requests to §511.63(b)(20).

Response: HHSC revises the rules in response to this comment by removing §511.63(b)(8), renumbering the subsequent paragraphs, and adding "on oral or written request" to §511.63(b)(20), renumbered to §511.63(b)(19).

Comment: DRTx stated training on informed consent should be mandatory in §511.63(d), which requires an LSRH's medical staff and governing body to adopt, implement, and enforce a policy on informed decision making that is consistent with any legal requirements.

Response: HHSC declines to revise §511.63(d) because an LSRH has the authority to determine training requirements for its policies.

Comment: DRTx recommended amending §511.63(e)(1) to require the LSRH's procedure for submitting verbal or written complaints to also require the LSRH to document receipt of a patient's grievance in the patient's record.

Response: HHSC declines to revise §511.63(e)(1) because §511.63(e) is about requiring an LSRH to inform the patient on who to contact to file a complaint and an LSRH has the authority to determine how to document received complaints.

Comment: DRTx recommended amending §511.63(e)(3) to require an LSRH to include information about appealing an LSRH's determination in its grievance resolution notice.

Response: HHSC declines to revise §511.63(e)(1) because an LSRH has the authority to determine its appeals process.

Comment: DRTx recommended clarifying which facilities in §511.65(b) are exempted from licensure and why they are allowed to operate without a license. DRTx requested HHSC clarify the language in §511.65(b) if the subsection is meant to reference state-run facilities.

Response: HHSC declines to revise because general, special, and private psychiatric hospitals that are federally operated or state owned and operated are not required to have a hospital license.

Comment: DRTx recommended amending §511.65(h)(2) to require an LSRH to document the reason a patient refused a transfer, transfer-related exam, or transfer-related treatment in the patient's medical record in addition to a signature.

Response: HHSC declines to revise §511.65(h)(2) because it is within a patient's right to refuse a transfer or transfer-related exam or transfer-related treatment and up to the medical professional's judgement whether they want to elaborate on the reason for refusal in the patient's medical record.

Comment: DRTx recommended clarifying the term "unreasonable discrimination" in §511.65(j), which requires the "LSRH's transfer policy shall prohibit a patient transfer from being predicated upon arbitrary, capricious, or unreasonable discrimination based upon race, religion, national origin, age, sex, physical condition, economic status, insurance status, or ability to pay" and asked whether discrimination is allowed as long as it is reasonable.

Response: HHSC declines to revise §511.65(j) because the Legislature indicated its intent by using the term "unreasonable discrimination" in the statute governing hospital patient transfer rules at HSC §241.027(b)(5).

Comment: TNA and TNP noted both §511.65 and the general and special hospital rule at 25 TAC §133.44 require a physician evaluation after a patient arrives at the hospital and before a transfer, but §511.65 excludes the provisions at 25 TAC §133.44(c)(4) allowing a registered nurse, PA, or other qualified medical personnel to assess and report the patient's condition to the physician for an initial evaluation or in place of an evaluation if the physician determines the evaluation would unnecessarily delay the transfer to the patient's detriment. TNA and TNP recommended amending §511.65 to include the provisions in 25 TAC §133.44(c)(4).

Response: HHSC revises §511.65(l) as suggested.

Comment: DRTx recommended amending §511.65(n) and §511.65(q)(4) to clarify evaluation and treatment are steps towards the ultimate goal of ensuring the patient is stabilized before transfer.

Response: HHSC declines to revise §511.65(n) and §511.65(q)(4) because §511.65(n) and §511.65(q)(4) address situations when stabilization is not possible.

Comment: DRTx stated the phrase "as soon as possible" in §511.65(r)(1) is not definitive and could be interpreted as months later, possibly delaying care. DRTx recommended providing a timeframe for the transfer of records to occur, at a minimum of 24-48 hours after receipt.

Response: HHSC declines to revise §511.65(r)(1) because an LSRH has the authority to make the business decision regarding record transfers and must operate in a manner that protects patient health and safety.

Comment: DRTx recommended clarifying whether the responsibility of designated staff in §511.67(b) includes sending records to the transfer facilities and responding to requests for records from the patient, the patient's legally authorized representative, or other entities.

Response: HHSC declines to revise §511.67(b) because an LSRH has the authority to determine staff responsibilities beyond this chapter's requirements.

Comment: TAPA expressed concern with §511.67(c)(18) because the language does not include PAs in the list of providers who may evaluate a patient before dismissal. TAPA stated PAs may also evaluate patients prior to dismissal in a hospital setting and recommended adding PAs to §511.67(c)(18).

Response: HHSC revises §511.67(c)(18) in response to this comment to indicate a patient's medical record should include evidence of the patient's evaluation before dismissal by physician, podiatrist, dentist, or other practitioner, practicing within the scope of their license and education.

Comment: DRTx stated the term "reasonable" in §511.67(j) is subjective and the requester has the right to know within what timeframe to expect their medical records request to be fulfilled. DRTx recommended adding a specific timeframe and stated the typical timeframe is 10 days.

Response: HHSC declines to revise §511.67(j) because an LSRH has the authority to determine a reasonable timeframe.

Comment: DRTx stated, "knowing the correct temperature is not the same as requiring maintenance of the temperatures during an emergency." DRTx recommended amending §511.68(e)(3)(b)(i) to require an LSRH to maintain temperatures during an emergency.

Response: HHSC declines to revise §511.68(e)(3)(b)(i) because an LSRH has the authority to determine the details of their emergency preparedness policies and procedures beyond the requirements in §511.68. Additionally, HHSC expects an LSRH to comply with its policies and procedures.

Comment: TNA and TNP recommended amending the language requiring the patient's most recent physician's assessment in §511.68(e)(4)(F)(i) to allow the patient to be transferred with the most recent assessment, regardless of the provider who conducted the assessment. TNA and TNP further stated this flexibility would prevent unnecessary delays and ensure patient safety in an emergency situation.

Response: HHSC revises §511.68(e)(4)(F) in response to this comment to require a patient's most recent physician assessment if the patient was last seen by a physician and the patient's most recent assessment if the patient was last assessed by a practitioner within the scope of their license and education. HHSC also revises the organization of the rest of this subparagraph for clarity and renumbers the subsequent subparagraphs in paragraph (e)(4).

Comment: DRTx recommended amending §511.68(h)(1)(A) to require initial training in emergency preparedness policies and procedures to be competency-based to demonstrate and provide evidence of the staff's mastery of the material.

Response: HHSC declines to revise §511.68(h)(1)(A) because §511.68(h)(1)(D) requires an LSRH to demonstrate staff knowledge of emergency procedures.

Comment: DRTx recommended amending §511.76(b)(1) to require an LSRH to inform each patient about the hospital's visitation policy and document the clinical justification for any deviation from the policy in the patient's record.

Response: HHSC revises §511.76(b) in response to this comment by adding language in (b)(2) requiring an LSRH to inform each patient of the LSRH's visitation policy, and a new requirement in (b)(6) for documentation of the clinical justification for any deviation from the LSRH visitation policy in the patient's record. HHSC also renumbers the paragraphs accordingly and revises

§511.76(b)(1) to clarify an LSRH must inform a patient of their rights under the section at the same time as other rights under §511.63.

Comment: DRTx also recommended amending §511.76(b)(1) to require an LSRH to post visitation information and potential restrictions on the hospital website.

Response: HHSC declines to revise §511.76(b)(1) because an LSRH has the authority to update its policies and it may not be feasible to keep a website up to date to match policy changes.

Comment: DRTx recommended clarifying the term "health screening" in §511.76(g)(2)(A) by specifying who can perform the screening as well as the timeframe. DRTx also recommended requiring this information to be on the LSRH's website.

Response: HHSC declines to revise §511.76(g)(2)(A) because the health screening is statutorily required and only applicable in a qualifying period of disaster, and an LSRH has the authority to set the details of the visitor health screening during a qualifying period of disaster beyond what is required by section 511.76.

HHSC declines to add a requirement for this information to be on the LSRH website because an LSRH has the authority to update its policies and it may not be feasible to keep a website up to date to match policy changes.

Comment: THA stated the cumulative penalty structure for pricing transparency violations in §511.77(g)(2) is not supported by statutory language in HSC §327.008.

Response: HHSC declines to revise §511.77(g)(2) because the language implements HSC §327.008 and is consistent with the general and special hospital rule at 25 TAC §133.53(h)(2).

Comment: DRTx recommended amending §511.78(a) to clarify an LSRH may only impose restraint or seclusion "when it is immediately necessary to prevent imminent probable bodily harm to the individual or others."

Response: HHSC declines to revise §511.78(a) because the current language, which clarifies a "restraint or seclusion may only be imposed to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time," conveys the same information as the recommended amended language.

Comment: DRTx commented on §511.78(e) and stated it is contraindicated to place a person who is self-destructive in seclusion as seclusion does not prevent self-injury.

Response: HHSC declines to revise §511.78(e) because §511.78(d) requires an LSRH to have policies and procedures regarding the use of seclusion that are consistent with current standards of practice. Additionally, the language in §511.78(e) is consistent with the federal Conditions of Participation for REHs.

Comment: DRTx recommended amending §511.78(f) to add language regarding a patient's right to monitoring by trained staff. DRTx also recommended requiring the implementation of restraint or seclusion to be consistent with the mandated training.

Response: HHSC declines to revise §511.78(f) because safe implementation includes monitoring and the language specifies requirements for the required training. Additionally, the language in §511.78(f) is consistent with the federal Conditions of Participation for REHs.

Comment: DRTx recommended amending §511.78(f)(2) to add language requiring the restraint or seclusion training to include

de-escalation techniques in addition to requiring the training to include alternatives to restraint or seclusion.

Response: HHSC revises §511.78(f)(2) in response to this comment by adding language requiring the restraint or seclusion training to include de-escalation techniques and other alternatives to restraint or seclusion.

Comment: THA expressed concern with the language in §511.111(a)(1) and (2) and stated the language could result in confusion about when facility staff are allowed to accompany HHSC staff and undue penalties in situations where facility staff may happen to overhear HHSC staff conversations in public areas of the facility where conversations and interviews are not meant to be private. THA recommended amending the language to indicate the restriction applies to intentional actions by facility staff to record, listen to, or eavesdrop on conversations HHSC staff meant to be private. THA also recommended adding language requiring HHSC staff to take measures to prevent being overheard and to expressly exempt from the restriction conversations for which HHSC staff allows facility staff to be present.

Response: HHSC revises §511.111(a)(2) in response to this comment to state an LSRH shall not intentionally record, listen to, or eavesdrop on any HHSC internal discussions outside the presence of LSRH staff when HHSC has requested a private room or office or distanced themselves from LSRH staff. HHSC also revises the language to require the LSRH to obtain HHSC staff's written approval before beginning to record or listen to the discussion. HHSC also adds 511.111(c) to state an interview or conversation for which facility staff are permitted either by words or actions to be present does not constitute a violation of this rule.

Comment: THA expressed concern about the language in §511.113(h) requiring an LSRH to allow HHSC to interview certain individuals, including the governing body. THA stated members of the governing body are likely not involved in an LSRH's daily operations and being subject to interview may dissuade community members from serving on the governing body. THA suggested HSHC remove the reference to the governing body.

Response: HHSC declines to revise §511.113(h) because HHSC may need to interview a governing body member for information regarding meetings. Additionally, governing body members should have awareness and information on the issues for which the governing body is responsible.

Comment: THA expressed concern with the language in §511.113(h) requiring an LSRH to allow HHSC to request a written statement from certain individuals, including the governing body. THA stated the requirement sets up the potential for secondary enforcement action if a written statement cannot be provided or if HHSC is unsatisfied with the content of the statement. THA also stated the provision could create an adversarial situation if an individual or facility declines to provide the requested written statement. THA suggested HSHC remove the language related to requesting a written statement.

Response: HHSC declines to revise §511.113(h) because obtaining written statements are necessary in certain situations, such as abuse or neglect allegations.

Comment: THA expressed concern with the language in §511.121(c)(2) including certain reasons for license denial that appear overly broad. THA stated these reasons may include

situations of minor infractions or instances that are not an indication of the LSRH's fitness to operate the facility. THA was specifically concerned with federal Medicare or state Medicaid sanction or penalties, unsatisfied federal or state tax liens, unsatisfied final judgments, and unresolved federal Medicare or state Medicaid audit exceptions, and requested HHSC review the list of categories and suggested revised language for HHSC's consideration.

Response: HHSC declines to revise §511.121(c)(2) because HHSC has the authority to deny a license, and the language in §511.121(c) allows HHSC discretion to consider the facility's specific circumstances in each situation. Additionally, §511.121(c)(2) is consistent with the language in 25 TAC §133.121(2)(B).

HHSC made the following edits to correct grammar and capitalization, provide clarity, improve readability, and ensure consistency with HHSC rulemaking guidelines.

HHSC moved the phrase "during the licensing period" to the beginning of the sentence in §511.11(d) for clarity.

HHSC amended §511.12(a)(5) to require the fire inspection to be dated no earlier than one year before the "application submission date" instead of "LSRH's opening date" for clarity.

HHSC replaced "radiological" with "radiologic" in the title of §511.46 and where §511.46 is referenced in §511.61(p) and §511.165(a)(2)(H). HHSC replaced "radiology services" with "radiologic services" in §511.46(b), (c), (c)(1), (d), (g), (h), and (i) to reduce confusion and to ensure consistency with the federal Conditions of Participation for REHs.

HHSC removed "as well as" in §511.50(e)(3)(B) for clarity.

HHSC removed an extraneous "have" from §511.50(k), renumbered to §511.50(k)(2), for clarity and readability.

HHSC added "within the scope of their license and education" in §511.56(g)(4) and §511.67(c)(14) to clarify which practitioners can perform certain tasks.

HHSC replaced "their" with "the patient's" in §511.63(b)(11), renumbered to §511.63(b)(10), for clarity.

HHSC reorganized §511.76(g)(2)(C)(i) - (ii) to §511.76(g)(3)(A) - (B) for clarity.

HHSC added "and during a qualifying period of disaster" to §511.76(h) and §511.76(i)(2) to clarify the health screening only applies during a qualified disaster period.

HHSC clarified the internal reference in §511.76(k) for clarity.

HHSC added a parenthesis at the end of the first sentence in §511.1(c).

HHSC corrected a capitalization error in §511.2(3).

HHSC corrected a grammatical error by removing an extraneous "the" in §511.12(b)(3).

HHSC added "registered nurse" and parentheses around "RN" in §511.55(m)(1) to spell out an abbreviation on first use.

HHSC replaced the term "postanesthesia" with "post-anesthesia" in §511.56(m), (n), and (o), §511.60(r)(2)(B), and §511.60(s)(2) for readability.

## SUBCHAPTER A. GENERAL PROVISIONS

### 26 TAC §§511.1 - 511.3

## STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §241.302(b), which provides that the Executive Commissioner of HHSC shall adopt rules to implement that section and establish minimum standards for LSRHs.

### §511.1. Definitions.

(a) The purpose of this chapter is to implement Texas Health and Safety Code Chapter 241, Subchapter K for Limited Services Rural Hospitals licensed by the Texas Health and Human Services Commission.

(b) This chapter provides:

- (1) procedures for obtaining a limited services rural hospital (LSRH) license;
- (2) standards for LSRH functions and services;
- (3) patient rights;
- (4) discrimination or retaliation prohibitions;
- (5) patient transfer and other policy and protocol requirements;
- (6) reporting, posting, and training requirements relating to abuse and neglect;
- (7) standards for voluntary agreements;
- (8) inspection and investigation procedures;
- (9) enforcement standards;
- (10) fire prevention and protection requirements;
- (11) general safety standards;
- (12) physical plant and construction requirements; and
- (13) standards for the preparation, submittal, review, and approval of construction documents.

(c) An LSRH shall comply with the Conditions of Participation for Rural Emergency Hospitals at Code of Federal Regulations Title 42 Part 485, Subpart E (relating to Conditions of Participation: Rural Emergency Hospitals (REHs)). To the extent the conditions of participation conflict with Texas law and this chapter, Texas law and this chapter shall prevail.

(d) Compliance with this chapter does not constitute release from the requirements of other applicable federal, state, or local laws, codes, rules, regulations, and ordinances. This chapter must be followed where it exceeds other requirements.

### §511.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings.

- (1) Act--The Texas Hospital Licensing Law, Texas Health and Safety Code (HSC), Chapter 241.
- (2) Actual harm--A negative outcome that compromises a patient's physical, mental, or emotional well-being.
- (3) Advance directive--A directive, as that term is defined by HSC §166.031 (relating to Definitions), an out-of-hospital do not resuscitate (DNR) order as that term is defined by HSC §166.081 (relating to Definitions), or a medical power of attorney under HSC Chapter 166, Subchapter D (relating to Medical Power of Attorney).

(4) Advanced practice registered nurse (APRN)--A registered nurse authorized by the Texas Board of Nursing to practice as an advanced practice registered nurse in Texas. The term includes a nurse practitioner, nurse midwife, nurse anesthetist, and clinical nurse specialist. The term is synonymous with "advanced nurse practitioner."

(5) Adverse event--An event that results in unintended harm to the patient by an act of commission or omission rather than by the underlying disease or condition of the patient.

(6) Applicant--A person who seeks a limited services rural hospital (LSRH) license from the Texas Health and Human Services Commission (HHSC) and is legally responsible for the operation of the LSRH, whether by lease or ownership.

(7) Attending physician--A physician selected by or assigned to a patient who has primary responsibility for a patient's treatment and care.

(8) Available--When referring to on-site personnel, on the premises and able to rapidly perform hands-on care in an emergency situation.

(9) Biological indicators--Commercially available microorganisms (e.g., United States Food and Drug Administration approved strips or vials of *Bacillus* species endospores).

(10) Cardiopulmonary resuscitation--Any medical intervention used to restore circulatory or respiratory function that has ceased.

(11) Chemical dependency services--A planned, structured, and organized program designed to initiate and promote a person's chemical-free status or to maintain the person free of illegal drugs. It includes the application of planned procedures to identify and change patterns of behavior related to or resulting from chemical dependency that are maladaptive, destructive, or injurious to health, or to restore appropriate levels of physical, psychological, or social functioning lost due to chemical dependency.

(12) Competent--Possessing the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of and reasonable alternatives to a proposed treatment decision.

(13) Comprehensive medical rehabilitation--The provision of rehabilitation services that are designed to improve or minimize a person's physical or cognitive disabilities, maximize a person's functional ability, or restore a person's lost functional capacity through close coordination of services, communication, interaction, and integration among several professions that share responsibility to achieve team treatment goals for the person.

(14) Contaminated linen--Linen that has been soiled with blood or other potentially infectious materials or may contain sharps.

(15) Dentist--A person licensed to practice dentistry by the Texas State Board of Dental Examiners. This includes a doctor of dental surgery or a doctor of dental medicine.

(16) Dietitian--A person who is currently licensed by the Texas Department of Licensing and Regulation as a licensed dietitian or provisional licensed dietitian, or who is a registered dietitian with the Academy of Nutrition and Dietetics.

(17) Do not resuscitate (DNR) order--An order issued under HSC Chapter 166, Subchapter E (relating to Health Care Facility Do-Not-Resuscitate Orders), instructing a health care professional not to attempt cardiopulmonary resuscitation on a patient whose circulatory or respiratory function ceases.

(18) Emergency medical condition--A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances or symptoms of substance abuse) such that the absence of immediate medical attention could reasonably be expected to result in one or all of the following:

(A) placing the health of the individual (or with respect to a pregnant individual, the health of the pregnant individual or her unborn child) in serious jeopardy;

(B) serious impairment to bodily functions;

(C) serious dysfunction of any bodily organ or part; or

(D) with respect to a pregnant individual who is having contractions:

(i) that there is inadequate time to safely transfer to another hospital before delivery; or

(ii) that transfer may pose a threat to the health or safety of the pregnant individual or the unborn child.

(19) General hospital--An establishment that:

(A) offers services, facilities, and beds for use for more than 24 hours for two or more unrelated individuals requiring diagnosis, treatment, or care for illness, injury, deformity, abnormality, or pregnancy; and

(B) regularly maintains, at a minimum, clinical laboratory services, diagnostic X-ray services, treatment facilities, including surgery or obstetrical care or both, and other definitive medical or surgical treatment of similar extent.

(20) Governing body--The governing authority of an LSRH that is responsible for the LSRH's organization, management, control, and operation, including appointment of medical staff. This term includes the owner or partners for an LSRH owned or operated by an individual or partners.

(21) Governmental unit--A political subdivision of the state, including a hospital district, county, or municipality, and any department, division, board, or other agency of a political subdivision.

(22) Incompetent--Lacking the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of and reasonable alternatives to a proposed treatment decision.

(23) Inpatient--An individual admitted to a facility for an intended length of stay of 24 hours or greater.

(24) Inpatient services--Services provided to an individual admitted to an LSRH for an intended length of stay of 24 hours or greater.

(25) Legally authorized representative (LAR)--A person authorized by law to act on behalf of another person with regard to a matter described in this chapter, including:

(A) a parent, guardian, or managing conservator of a minor;

(B) the guardian of an adult;

(C) an agent to whom authority to make health care decisions is delegated under a medical power of attorney or durable power of attorney in accordance with state law; or

(D) the representative of a deceased person.

(26) Licensed vocational nurse (LVN)--A person who is currently licensed by the Texas Board of Nursing as a licensed vo-

national nurse or who holds a valid vocational nursing license with multi-state licensure privilege from another compact state.

(27) Licensee--The person or governmental unit named in the application for issuance of an LSRH license.

(28) Limited services rural hospital (LSRH)--A general or special hospital that is or was licensed under HSC Chapter 241 and that:

(A) is:

(i) located in a rural area, as defined by:

(I) Texas Health and Human Services Commission rule; or

(II) 42 U.S.C. Section 1395ww(d)(2)(D); or

(ii) designated by the Centers for Medicare & Medicaid Services as a critical access hospital, rural referral center, or sole community hospital; and

(B) otherwise meets the requirements to be designated as to be designated as a rural emergency hospital under Code of Federal Regulations Title 42 (42 CFR) Part 485, Subpart E.

(29) Limited services rural hospital (LSRH) administration--Administrative body of an LSRH headed by an individual who has the authority to represent the LSRH and who is responsible for the operation of the LSRH according to the policies and procedures of the LSRH's governing body.

(30) Medical staff--A physician or group of physicians and a podiatrist or group of podiatrists who by action of the governing body of an LSRH are privileged to work in and use the facilities of an LSRH for or in connection with the observation, care, diagnosis, or treatment of an individual who is, or may be, suffering from a mental or physical disease or disorder or a physical deformity or injury.

(31) Mental health services--All services concerned with research, prevention, and detection of mental disorders and disabilities and all services necessary to treat, care for, supervise, and rehabilitate persons who have a mental illness.

(32) Nurse--A registered, vocational, or advanced practice registered nurse licensed by the Texas Board of Nursing or entitled to practice in this state under Texas Occupations Code Title 3, Subtitle E.

(33) Other potentially infectious materials--Any of the following materials.

(A) The following human body fluids:

(i) semen;

(ii) vaginal secretions;

(iii) cerebrospinal fluid;

(iv) synovial fluid;

(v) pleural fluid;

(vi) pericardial fluid;

(vii) peritoneal fluid;

(viii) amniotic fluid;

(ix) saliva in dental procedures;

(x) any body fluid that is visibly contaminated with blood; and

(xi) all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

(B) any unfixed tissue or organ (other than intact skin) from a human (living or dead); or

(C) human immunodeficiency virus (HIV)-containing cell or tissue cultures, organ cultures, and HIV or hepatitis B virus (HBV)-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

(34) Outpatient--An individual who presents for diagnostic or treatment services for an intended length of stay of less than 24 hours. An individual who requires continued observation may be considered as an outpatient for up to 48 hours.

(35) Outpatient services--Services provided to patients whose medical needs can be met in less than 24 hours and are provided within the LSRH. Services that require continued observation may be considered as outpatient services for up to 48 hours.

(36) Owner--One of the following persons or governmental unit which will hold or does hold a license issued under the statute in the person's name or the person's assumed name:

(A) a corporation;

(B) a governmental unit;

(C) a limited liability company;

(D) an individual;

(E) a partnership if a partnership name is stated in a written partnership agreement or an assumed name certificate;

(F) all partners in a partnership if a partnership name is not stated in a written partnership agreement or an assumed name certificate; or

(G) all co-owners under any other business arrangement.

(37) Patient--An individual who presents for diagnosis or treatment.

(38) Person--An individual, firm, partnership, corporation, association, or joint stock company, and includes a receiver, trustee, assignee, or other similar representative of those entities.

(39) Physician--An individual licensed by the Texas Medical Board and authorized to practice medicine in the state of Texas.

(40) Physician assistant--A person licensed as a physician assistant by the Texas Physician Assistant Board.

(41) Podiatrist--A podiatrist licensed by the Texas Department of Licensing and Regulation.

(42) Practitioner--A health care professional licensed in the state of Texas, other than a physician, podiatrist, or dentist.

(43) Prelicensure conference--A conference held with HHSC staff and the applicant or the applicant's representative to review licensure rules and survey documents and provide consultation prior to the on-site licensure inspection.

(44) Premises--A building where patients receive LSRH services.

(45) Prominent location--A size and font at least as large as that of surrounding text, links, or buttons, distinct from the background of the website, immediately viewable upon accessing the home page of the hospital's publicly accessible website without having to scroll.

(46) Prominently displayed--Refer to "prominent location."

(47) Public health emergency--A state of disaster or local disaster declared under Texas Government Code Chapter 418 or a public health disaster as defined by HSC §81.003.

(48) Qualified rural hospital--A general or special hospital licensed under HSC Chapter 241 (relating to Hospitals) on December 27, 2020, that meets the requirements to be designated as a rural emergency hospital under 42 CFR §485.502 (relating to Definitions), and §485.506 (relating to Designation and Certification of REHs) and is:

(A) located in a rural area, as defined by 42 United States Code §1395ww(d)(2)(D); or

(B) designated by the Centers for Medicare & Medicaid Services as a critical access hospital, rural referral center, or sole community hospital.

(49) Qualifying official disaster order--An order, proclamation, or other instrument issued by the Governor, another official of this state, or the governing body or an official of a political subdivision of this state declaring a disaster that has infectious disease as the basis for the declared disaster.

(50) Qualifying period of disaster--The period of time the area in which a LSRH is located is declared to be a disaster area by a qualifying official disaster order.

(51) Quality improvement--A method of evaluating and improving processes of patient care that emphasizes a multidisciplinary approach to problem solving, and focuses not on individuals, but systems of patient care which might be the cause of variations.

(52) Quality improvement organization--An organization that has a contract with the Centers for Medicare & Medicaid Services, under Title XI Part B of the Social Security Act, to perform utilization and quality control review of the health care furnished, or to be furnished, to Medicare beneficiaries.

(53) Religious counselor--An individual acting substantially in a pastoral or religious capacity to provide spiritual counsel to other individuals.

(54) Registered nurse (RN)--A person who is currently licensed by the Texas Board of Nursing as a registered nurse or who holds a valid registered nursing license with multi-state licensure privilege from another compact state.

(55) Restraint--A restraint is:

(A) any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move their arms, legs, body, or head freely; or

(B) a drug or medication when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition and does not include:

(i) devices such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient for the purpose of conducting routine physical examinations or tests; or

(ii) devices to protect the patient from falling out of bed, off of a stretcher, or out of a chair, or to permit the patient to participate in activities without the risk of physical harm (this does not include a physical escort).

(56) Seclusion--The involuntary confinement of a patient alone in a room or area from which the patient is physically prevented from leaving.

(57) Special hospital--An establishment that:

(A) offers services, facilities, and beds for use for more than 24 hours for two or more unrelated individuals who are regularly admitted, treated, and discharged and who require services more intensive than room, board, personal services, and general nursing care;

(B) has clinical laboratory facilities, diagnostic X-ray facilities, treatment facilities, or other definitive medical treatment;

(C) has a medical staff in regular attendance; and

(D) maintains records of the clinical work performed for each patient.

(58) Stabilize--With respect to an emergency medical condition, to provide such medical treatment of the condition necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility, or that the woman has delivered the child and the placenta.

(59) Surgical technologist--A person who practices surgical technology as defined in HSC Chapter 259.

(60) Telemedicine--A health care service that is initiated by a physician or provided by a licensed health professional acting under appropriate physician delegation and supervision that is provided for purposes of client assessment by a health professional, diagnosis or consultation by a physician, or treatment, or for the transfer of medical data, and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(61) Transfer--The movement (including the discharge) of an individual outside an LSRH's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the LSRH, but does not include such a movement of an individual who has been declared dead, or leaves the facility without the permission of any such person.

(62) Universal precautions--Procedures for disinfection and sterilization of reusable medical devices and the appropriate use of infection control, including hand washing, the use of protective barriers, and the use and disposal of needles and other sharp instruments as those procedures are defined by the Centers for Disease Control and Prevention (CDC) of the United States Department of Health and Human Services. This term includes standard precautions as defined by the CDC that are designed to reduce the risk of transmission of blood borne and other pathogens in hospitals.

(63) Violation--Failure to comply with the licensing statute, a rule or standard, special license provision, or an order issued by the HHSC executive commissioner (executive commissioner) or the executive commissioner's designee, adopted or enforced under the licensing statute. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 834-4591



## SUBCHAPTER B. LICENSING REQUIREMENTS

### 26 TAC §§511.11 - 511.17

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §241.302(b), which provides that the Executive Commissioner of HHSC shall adopt rules to implement that section and establish minimum standards for LSRHs.

#### §511.11. General.

(a) A limited services rural hospital (LSRH) shall obtain a license before admitting patients.

(b) An applicant for an LSRH license shall submit a license application to the Texas Health and Human Services Commission (HHSC) in a form and manner prescribed by HHSC.

(c) An applicant shall submit a license application in accordance with §511.12 of this subchapter (relating to Application and Issuance of Initial License). The applicant shall retain copies of all application documents submitted to HHSC.

(d) During the licensing period, an LSRH shall comply with the other provisions of Texas Health and Safety Code Chapter 241 (relating to Hospitals), to the extent they do not conflict with Subchapter K (relating to Limited Services Rural Hospitals), and Code of Federal Regulations Title 42 Part 485 Subpart E (relating to Conditions of Participation: Rural Emergency Hospitals (REHs)) and this chapter.

(e) HHSC issues an LSRH license for the premises and person named in the application.

(1) An LSRH license shall not include off-site outpatient facilities.

(2) An LSRH may share a building with other licensed facilities.

(A) The LSRH must be licensed separately from the other licensed facilities.

(B) No identifiable part of the building may be dually licensed by more than one facility.

(C) Each licensed facility in the building shall comply with the requirements of §511.165 of this chapter (relating to Building with Multiple Occupancies).

(3) A licensed LSRH shall not hold or pursue dual licensure as any other facility type.

(f) An LSRH shall prominently and conspicuously display the LSRH license in a public area of the licensed premises that is readily visible to patients, employees, and visitors.

(g) An LSRH shall not alter the LSRH license.

(h) An LSRH license is nontransferable. The LSRH shall comply with the provisions of §511.15 of this subchapter (relating to Change of Ownership) in the event of a change in the ownership of an LSRH.

(i) An LSRH shall notify HHSC in writing and in accordance with HHSC instructions, of any changes affecting the LSRH's license before the change occurs. Changes may include:

(1) addition or deletion of services indicated on the license application; or

(2) any construction, renovation, or modification of the hospital buildings.

(j) An LSRH shall notify HHSC, in writing and in accordance with HHSC instructions, at the time of the occurrence of any of the following:

(1) cessation of operation of the LSRH, whether temporary or permanent;

(2) change in certification or accreditation status;

(3) change in the LSRH name, telephone number, or administrator; or

(4) change in the emergency contact name or emergency contact phone number.

(k) A written notice of cessation of operation under subsection (j)(1) of this section shall include the location where the LSRH will store medical records and the identity and telephone number of the custodian of the medical records.

*§511.12. Application and Issuance of Initial License.*

(a) An applicant who meets the definition of a qualified rural hospital under §511.2(47) of this chapter (relating to Definitions) and is seeking a limited services rural hospital (LSRH) license shall submit the following documents to the Texas Health and Human Services Commission (HHSC) within 60 calendar days before the projected opening date of the LSRH:

(1) an accurate and complete application form;

(2) a copy of the LSRH's patient transfer policy, developed in accordance with §511.65 of this chapter (relating to Patient Transfer Policy) and signed by both the chairman and secretary of the LSRH's governing body attesting to the date the governing body adopted the policy and the policy's effective date;

(3) a copy of the LSRH's memorandum of transfer form that contains at least the information described in §511.65 of this chapter;

(4) a copy of a patient transfer agreement entered into between the LSRH and at least one hospital certified by the Centers for Medicare & Medicaid Services that is designated as a level I or level II trauma center in accordance with §511.66 of this chapter (relating to Patient Transfer Agreements);

(5) a copy of a fire inspection approved by an individual certified by the Texas Commission on Fire Protection that is dated no earlier than one year before the application submission date; and

(6) the appropriate license fee as required in §511.17 of this subchapter (relating to Fees).

(b) In addition to the document submittal requirements in subsection (a) of this section, the applicant must complete the following before HHSC will issue an LSRH license.

(1) When HHSC requires an architectural inspection, per HHSC instructions, submit written approval from HHSC confirming compliance with Subchapters F and G of this chapter (relating to Fire Prevention and Safety and Physical Plant and Construction Requirements, respectively).

(A) HHSC requires an architectural inspection when a qualifying rural hospital that has closed subsequently applies for an LSRH license.

(B) A hospital applying for an LSRH license after being closed for 90 days or fewer shall inform HHSC of the entity maintaining the facility during the closure period, if any, and provide maintenance and facility condition documentation, such as logbooks and photographs. HHSC may waive the architectural inspection if HHSC determines the documentation indicates an acceptable maintenance history and facility condition.

(C) HHSC may waive the architectural inspection for a currently operating qualifying rural hospital that applies for an LSRH license.

(2) If the applicant intends to add on any new services as an LSRH that the applicant did not offer while licensed as a general or special hospital, the applicant must comply with Subchapter G of this chapter as applicable.

(3) The applicant or the applicant's representative shall attend a preclosure conference conducted by HHSC. HHSC may waive the preclosure conference requirement at its discretion.

(c) Subject to subsection (g) of this section, when HHSC determines the applicant has complied with subsections (a) and (b) of this section, HHSC shall issue the LSRH license to the applicant.

(1) The license is effective on the issue date.

(2) The license expires on the last day of the month two years after the issue date.

(d) If an applicant decides not to continue the application process for a license, the applicant may withdraw the application. The applicant shall submit a written withdrawal request to HHSC. HHSC shall acknowledge receipt of the application withdrawal request.

(e) If the applicant does not complete all requirements of subsections (a) and (b) of this section within six months after the date HHSC receives the application and payment, HHSC may deny the application.

(f) Any fee paid for a withdrawn application under subsection (d) or (e) of this section is nonrefundable, as indicated by §511.17(a) of this subchapter.

(g) Denial of a license shall be governed by §511.121 of this chapter (relating to Enforcement).

(h) Once the LSRH is operational and providing services, HHSC shall conduct an inspection of the LSRH to ascertain compliance with the provisions of Texas Health and Safety Code Chapter 241 to the extent it does not conflict with Subchapter K and this chapter. This inspection may be conducted at the same time as the inspection to determine compliance with Code of Federal Regulations Title 42, Part 482 (relating to Conditions of Participation for Hospitals).

(i) An LSRH seeking relocation shall comply with all requirements of this section, except the preclosure conference required under

subsection (b)(3) of this section. An initial license for the relocated facility is effective on the issue date. The previous license is void on the date the previous location closes. The facility must notify HHSC once the previous location has closed.

§511.13. *Application and Issuance of Renewal License.*

(a) The Texas Health and Human Services Commission (HHSC) shall send written notice of license expiration to a limited services rural hospital (LSRH) at least 60 calendar days before the expiration date of the license. If the LSRH has not received notice, it is the LSRH's duty to notify HHSC and request a renewal notice.

(b) The LSRH shall submit the following to HHSC before the license expiration date:

(1) a complete and accurate application;

(2) a copy of two fire inspections that are conducted and approved by an individual certified by the Texas Commission on Fire Protection to conduct fire inspections and meet the requirements of §511.141 of this chapter (relating to Fire Prevention and Protection), one from within the last 12 months and one from the year before, as the LSRH must obtain an approved fire inspection annually;

(3) the renewal license fee; and

(4) if the applicant is accredited by a Centers for Medicare & Medicaid Services-approved organization, a copy of documentation from the accrediting body showing the current accreditation status of the hospital.

(c) HHSC may conduct an inspection before issuing a renewal license in accordance with §511.112 of this chapter (relating to Inspections).

(d) Subject to subsection (g) of this section, HHSC shall issue a renewal license to an LSRH that meets the requirements for a license.

(e) Renewal licenses will be valid for two years from the previous expiration date.

(f) If an LSRH fails to submit the application, documents, and fee by the expiration date of the LSRH's license, HHSC shall notify the LSRH that it must cease operation and immediately return the license to HHSC. If the LSRH intends to provide services after the expiration date of the license, HHSC may require the LSRH to apply for a license under §511.12 of this subchapter (relating to Application and Issuance of Initial License).

(g) Denial of a renewal license shall be governed by §511.121 of this chapter (relating to Enforcement).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## SUBCHAPTER C. OPERATIONAL REQUIREMENTS

### 26 TAC §§511.41 - 511.78

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §241.302(b), which provides that the Executive Commissioner of HHSC shall adopt rules to implement that section and establish minimum standards for LSRHs.

§511.42. *Governing Body Responsibilities.*

(a) A limited services rural hospital's (LSRH's) governing body shall address and is fully responsible, either directly or by appropriate professional delegation, for the operation and performance of the LSRH.

(b) The governing body is responsible for all services furnished in the LSRH, whether furnished directly or under contract. The governing body shall ensure:

(1) services, including any contracted services, are provided in a safe and effective manner that permits the LSRH to comply with all applicable rules and standards, including the federal conditions of participation at Code of Federal Regulations Title 42 (42 CFR) Part 485, Subchapter E and this chapter;

(2) the LSRH maintains a list of all contracted services, including the scope and nature of the services provided;

(3) the medical staff is accountable to the governing body for the quality of care provided to patients as required by 42 CFR §485.510; and

(4) the provision of education to students and postgraduate trainees if the LSRH participates in such programs.

(c) An LSRH's governing body shall adopt, implement, and enforce written policies and procedures for the total operation and all services the LSRH provides, with the policies for the LSRH's services being developed, reviewed, and updated in accordance with §511.51 of this subchapter (relating to Provision of Services). The policies and procedures shall include at least the following:

(1) bylaws or similar rules and regulations for the orderly development and management of the LSRH;

(2) policies or procedures necessary for the orderly conduct of the LSRH;

(3) policies or procedures related to emergency planning and disaster preparedness that shall require the governing body to review the LSRH's disaster preparedness plan at least annually;

(4) policies for the provision of the following services:

(A) emergency services;

(B) radiological services;

(C) laboratory services;

(D) pharmacy services; and

(E) any outpatient services the LSRH provides;

(5) policies for the collection, processing, maintenance, storage, retrieval, authentication, and distribution of patient medical records and reports;

(6) policy on the rights of patients and complying with all state and federal patient rights requirements;

(7) policies for the provision of an effective procedure for the immediate transfer to a licensed hospital of patients requiring emergency care beyond the capabilities of the LSRH, including a transfer agreement with a hospital licensed in this state as defined in §511.66 of this subchapter (relating to Patient Transfer Agreements);

(8) policies for all individuals that arrive at the LSRH to ensure they are provided an appropriate medical screening examination within the capability of the LSRH, including:

(A) ancillary services routinely available to determine whether or not the individual needs emergency care as defined in §511.2 of this chapter (relating to Definitions); and

(B) if emergency care is determined to be needed, the LSRH shall provide any necessary stabilizing treatment or arrange an appropriate transfer for the individual as defined in §511.65 of this subchapter (relating to Patient Transfer Policy);

(9) a policy that complies with the requirements under Texas Health and Safety Code §241.009 to require employees, physicians, contracted employees, and individuals in training who provide direct patient care at the LSRH to wear a photo identification badge during all patient encounters, unless precluded by adopted isolation or sterilization protocols; and

(10) policies to ensure compliance with applicable state and federal laws.

(d) The governing body's responsibilities shall include:

(1) determining the LSRH's mission, goals, and objectives;

(2) ensuring that facilities and personnel are sufficient and appropriate to carry out the LSRH's mission;

(3) determining, in accordance with state law, which categories of practitioners are eligible candidates for appointment to the medical staff;

(4) appointing members of the medical staff after considering the recommendations of the existing members of the medical staff;

(5) ensuring that the medical staff is accountable to the governing body for the quality of care provided to patients;

(6) ensuring the criteria for medical staff selection are individual character, competence, training, experience, and judgment;

(7) ensuring a physical environment that protects the health and safety of patients, personnel, and the public;

(8) establishing an organizational structure and specifying functional relationships among the various components of the LSRH;

(9) reviewing and approving the LSRH's training program for staff;

(10) ensuring all equipment utilized by LSRH staff or by patients is properly used and maintained per manufacturer recommendations;

(11) ensuring there is a quality assessment and performance improvement (QAPI) program to evaluate the provision of patient care;

(12) reviewing and monitoring QAPI activities quarterly;

(13) consulting directly at least periodically throughout the fiscal or calendar with medical director or their designee, and include

discussion of matters related to the quality of medical care provided to patients of the LSRH;

(14) consulting directly with the individual responsible for the organized medical staff (or their designee) of each hospital or LSRH within its system as applicable for a multi-facility system, including a multi-hospital or multi-LSRH system, using a single governing body;

(15) reviewing legal and ethical matters concerning the LSRH and its staff when necessary and responding appropriately;

(16) ensuring that under no circumstances is the accordance of staff membership or professional privileges in the LSRH dependent solely upon certification, fellowship, or membership in a specialty body or society;

(17) maintaining effective communication throughout the LSRH;

(18) establishing a system of financial management and accountability that includes an audit or financial review appropriate to the LSRH;

(19) formulating long-range plans in accordance with the mission, goals, and objectives of the LSRH;

(20) operating the LSRH without limitation because of color, race, age, sex, religion, national origin, or disability;

(21) ensuring that all marketing and advertising concerning the LSRH does not imply that it provides care or services that the LSRH is not capable of providing;

(22) developing a system of risk management appropriate to the LSRH, including:

(A) periodic review of all litigation involving the LSRH, its staff, physicians, and practitioners regarding activities in the LSRH;

(B) periodic review of all incidents reported by staff and patients;

(C) review of all deaths, trauma, or adverse reactions occurring on premises; and

(D) evaluation of patient complaints;

(23) ensuring that when telemedicine services are furnished to the LSRH's patients through an agreement with a distant-site hospital, the agreement meets the requirements of 42 CFR §485.510; and

(24) ensuring that when telemedicine services are furnished the services meet all federal and state laws, rules, and regulations.

(e) The governing body shall ensure the medical staff has current written bylaws, rules, and regulations that are adopted, implemented, and enforced by the LSRH on file.

(f) The governing body shall approve medical staff bylaws and other medical staff rules and regulations.

(g) The governing body, with input from the medical staff, shall periodically review the scope of procedures performed in the LSRH and amend as appropriate.

(h) The governing body shall provide for full disclosure of ownership to the Texas Health and Human Services Commission.

(i) The governing body shall meet at least annually and maintain minutes or other records necessary for the orderly conduct of the LSRH. Meetings the LSRH's governing body holds shall be separate

meetings with separate minutes from any other governing body meeting.

(j) If the governing body elects, appoints, or employs officers and administrators to carry out its directives, the governing body shall define the authority, responsibility, and functions of all such positions.

(k) The governing body shall provide (in a manner consistent with state law and based on evidence of education, training, and current competence) for the initial appointment, reappointment, and assignment or curtailment of privileges and practice for non-physician health care personnel and practitioners.

(l) The governing body shall develop a process for appointing or reappointing medical staff, and for assigning or curtailing medical privileges and shall periodically reappraise medical staff privileges.

(m) The governing body shall encourage personnel to participate in continuing education that is relevant to their responsibilities within the LSRH.

(n) The governing body shall review patient satisfaction with services and environment at least annually.

#### §511.44. *Emergency Services.*

(a) A limited services rural hospital (LSRH) shall provide the emergency care necessary to meet the needs of its patients in accordance with acceptable standards of practice.

(b) An LSRH shall provide to each patient, without regard to the individual's ability to pay, an appropriate medical screening, examination, and stabilization within the facility's capability, including ancillary services routinely available to the hospital, to determine whether an emergency medical condition exists and shall provide any necessary stabilizing treatment.

(c) An LSRH shall have an emergency suite that complies with §511.163(e) of this chapter (relating to Spatial Requirements).

(d) The organization of the LSRH's emergency services must be appropriate to the scope of the services offered.

(e) Emergency services must be organized under the direction of a qualified physician member of the LSRH's medical staff who is the medical director or clinical director.

(f) Emergency services must be integrated with other LSRH departments.

(g) The LSRH must maintain patient medical records for all emergency patients. The medical records shall contain patient identification, the reason for the visit, name of physician, name of nurse, time admitted to the emergency suite, treatment, time discharged, and disposition.

(h) The policies and procedures governing medical care provided in the emergency suite must be established by and must be a continued responsibility of the medical staff.

(i) There must be adequate medical and nursing personnel qualified in emergency care to meet the written emergency procedures and needs anticipated by the LSRH.

(j) There must be on-duty and on-site 24 hours a day, seven days a week at least one person qualified, as determined by the medical staff, to initiate immediate appropriate lifesaving measures and at least one nurse with current advanced cardiac life support and pediatric advanced life support certification. This individual or individuals must be able to receive patients and activate the appropriate medical resources to meet the care needed by the patient.

(k) Qualified personnel must be physically present in the emergency treatment area at all times.

(l) An LSRH must maintain schedules, names, and phone numbers of all physicians and others on emergency call duty, including alternates. The LSRH must maintain the schedules for at least one year.

(m) In accordance with Code of Federal Regulations Title 42 (42 CFR) §485.516(c)(4), there must be a physician, a physician assistant, or an advanced practice registered nurse, with training or experience in emergency care, on call and immediately available by telephone or radio contact, and available on-site at the LSRH within 30 minutes, on a 24-hour a day basis, if the LSRH is located in an area other than an area described in 42 CFR §485.618(d)(1)(ii).

(n) Emergency services must be available 24-hours per day.

(o) An LSRH shall keep adequate age-appropriate equipment, supplies, and medication used in treating emergency cases and make this equipment, supplies, and medication readily available for treating emergency cases.

(p) The age-appropriate emergency equipment and supplies available at the LSRH shall include at least the following:

- (1) emergency call system;
- (2) oxygen;
- (3) mechanical ventilatory assistance equipment, including airways, manual breathing bag, endotracheal tubes, ambu bag/valve/mask;
- (4) cardiac defibrillator;
- (5) cardiac monitoring equipment;
- (6) laryngoscopes and endotracheal tubes;
- (7) suction equipment;
- (8) stabilization devices for cervical injuries;
- (9) blood pressure monitoring equipment;
- (10) pulse oximeter or similar medical device to measure blood oxygenation;
- (11) tourniquets;
- (12) immobilization devices;
- (13) nasogastric tubes;
- (14) splints;
- (15) Intravenous (IV) therapy supplies;
- (16) suction machine;
- (17) chest tubes;
- (18) indwelling urinary catheters; and
- (19) drugs and biologicals commonly used in life-saving procedures as specified by the medical staff, which shall include:
  - (A) analgesics,
  - (B) local anesthetics,
  - (C) antibiotics,
  - (D) anticonvulsants,
  - (E) antidotes and emetics,
  - (F) serums and toxoids,

- (G) antiarrhythmics,
- (H) cardiac glycosides,
- (I) antihypertensives,
- (J) diuretics, and
- (K) electrolytes and replacement solutions.

(q) Equipment and supplies must be available at the LSRH for administering intravenous medications as well as facilities for bleeding control and emergency splinting of fractures.

(r) The LSRH shall periodically test emergency equipment according to the LSRH's adopted policy.

(s) An LSRH shall provide, either directly or under arrangements, services for the procurement, safekeeping, and transfusion of blood, including the availability of blood products needed for emergencies on a 24-hour a day basis.

(t) Provision for the storage of blood and blood products must be made as needed. If blood banking services are provided under an arrangement, the arrangement is approved by the LSRH's medical staff and by the persons directly responsible for the operation of the LSRH. An LSRH shall ensure all blood and blood components are stored in accordance with §511.45(h) of this subchapter (relating to Laboratory Services).

(u) An LSRH shall, in coordination with emergency response systems in the area, establish procedures under which a physician is immediately available by telephone or radio contact on a 24-hour a day basis to receive emergency calls, provide information on treatment of emergency patients, and refer patients to the LSRH or other appropriate locations for treatment.

*§511.45. Laboratory Services.*

(a) A limited services rural hospital (LSRH) shall provide basic laboratory services essential to the immediate diagnosis and treatment of the patient consistent with nationally recognized standards of care for emergency services, patient population, and services offered.

(b) The LSRH must ensure laboratory services are available, either directly or through a contractual agreement with a certified laboratory that complies with the Clinical Laboratory Improvement Amendments of 1988 (CLIA 1988) in accordance with the requirements specified in Code of Federal Regulations Title 42 (42 CFR) Part 493 (relating to Laboratory Requirements). CLIA 1988 applies to all hospitals with laboratories that examine human specimens for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(c) The LSRH shall ensure that all laboratory services provided to its patients through a contractual agreement are performed in a facility certified in the appropriate specialties and subspecialties of service in accordance with the requirements specified in 42 CFR Part 493 to comply with CLIA 1988.

(d) Emergency laboratory services shall be available on the premises, including at least the following:

- (1) assays for cardiac markers;
- (2) hematology;
- (3) chemistry; and
- (4) pregnancy testing.

(e) A written description of services provided shall be available to the medical staff.

(f) The laboratory shall ensure proper receipt and reporting of tissue specimens.

(g) The medical staff and a pathologist shall determine which tissue specimens require a macroscopic (gross) examination and which require both macroscopic and microscopic examination.

(h) When blood and blood components are stored, the LSRH shall have written procedures readily available containing directions on how to maintain the blood and blood components within permissible temperatures and include instructions to follow in the event of a power failure or other disruption of refrigeration.

(1) Blood transfusions shall be prescribed in accordance with LSRH policy and administered in accordance with a written protocol for the administration of blood and blood components and the use of infusion devices and ancillary equipment.

(2) A label or tray with the recipient's first and last names and identification number, donor unit number and interpretation of compatibility, if performed, shall be attached securely to the blood container.

(3) Personnel administering blood transfusions and intravenous medications shall have special training for this duty according to adopted, implemented, and enforced LSRH policy.

(4) Blood and blood components shall be transfused through a sterile, pyrogen-free transfusion set that has a filter designed to retain particles potentially harmful to the recipient.

(5) LSRH staff must observe the patient for potential adverse reactions during the transfusion and for an appropriate time thereafter, and document the observations and patient's response as defined in the LSRH's blood transfusion policy.

(6) Pretransfusion and posttransfusion vital signs shall be recorded.

(7) Following the transfusion, the blood transfusion record or a copy shall be made a part of the patient's medical record.

(i) The LSRH shall establish a mechanism for ensuring that the patient's physician or other licensed health care professional is made aware of critical value lab results, as established by the medical staff, before or after the patient is discharged.

(j) An LSRH that provides laboratory services shall adopt, implement, and enforce written policies and procedures to manage, minimize, or eliminate the risks to laboratory personnel of exposure to potentially hazardous chemicals in the laboratory that may occur during the normal course of job performance.

(k) Pathology and clinical laboratory services shall include at least the following:

(1) conducting laboratory procedures that are appropriate to the needs of the patients;

(2) performing tests in a timely manner;

(3) distributing test results within 24 hours after completion of a test and maintaining a copy of the results in the laboratory; and

(4) performing and documenting appropriate quality assurance procedures, including calibrating equipment periodically and validating test results through use of standardized control specimens or laboratories.

(l) Preoperative laboratory procedures may be required as follows.

(1) It shall be at the discretion of the governing body upon the recommendation of the medical staff to require preoperative laboratory orders.

(2) If specific preoperative laboratory work is required, the medical staff shall approve them in accordance with the medical staff bylaws. Other laboratory work shall be performed only on the order of a physician, podiatrist, dentist, or other practitioner, practicing within the scope of their license and education, and written on the patient's chart.

(3) These services shall be provided either directly within or through an effective contract arrangement with a Medicare-approved reference laboratory.

(4) The contractual agreement with the Medicare-approved reference laboratory shall provide for routine and stat work to include pathology, clinical, and blood bank services, if blood is authorized by the LSRH, and shall be available for review.

§511.46. *Radiologic Services.*

(a) A limited services rural hospital (LSRH) shall maintain, or have available, diagnostic radiologic services according to needs of the patients. All radiology equipment, including X-ray equipment, mammography equipment and laser equipment, shall be licensed and registered as required under Texas Administrative Code Title 25 (25 TAC) Chapter 289 (relating to Radiation Control). When therapeutic services are also provided, the services, as well as the diagnostic services, shall meet professionally approved standards for safety and personnel qualifications as required in 25 TAC §§289.227, 289.229, 289.230, and 289.231 (relating to Use of Radiation Machines in the Healing Arts; Radiation Safety Requirements for Accelerators, Therapeutic Radiation Machines, Simulators, and Electronic Brachytherapy Devices; Certification of Mammography Systems and Mammography Machines Used for Interventional Breast Radiography; and General Provisions and Standards for Protection Against Machine-Produced Radiation, respectively). Portable X-ray equipment may be acceptable as a minimum requirement.

(b) An LSRH shall adopt, implement, and enforce policies and procedures describing the radiologic services provided in the LSRH and how the LSRH maintains employee and patient safety.

(c) LSRH policies shall address the quality aspects of radiologic services by:

(1) performing radiologic services only upon the written order of a physician, podiatrist, dentist, or other practitioner, who is practicing within the scope of their license and education, and a concise statement of the reason for the examination; and

(2) limiting the use of any radioactive sources in the facility to physicians who have been granted privileges for such use based on their training, experience, and current competence.

(d) An LSRH shall minimize hazards to patients and personnel when providing radiologic services, particularly ionizing radiology procedures.

(e) An LSRH shall adopt, implement, and enforce policies and procedures to address safety including:

(1) regulation of the use, removal, handling, and storage of any radioactive material that is required to be licensed by the Texas Department of State Health Services (DSHS);

(2) precautions against electrical, mechanical, and radiation hazards;

(3) proper shielding where radiation sources are used;

(4) acceptable monitoring devices for all personnel who might be exposed to radiation, including requiring monitoring devices be worn by all personnel in any area with a radiation hazard;

(5) personnel monitoring dosimeters for nuclear medicine workers to measure their radiation exposure;

(6) maintenance of radiation exposure records on personnel;

(7) authenticated dated reports of all examinations performed shall be made a part of the patient's medical record;

(8) inspection of equipment shall be made by or under the supervision of a licensed medical physicist in accordance with 25 TAC §289.227(o) (relating to Use of Radiation Machines in the Healing Arts). Defective equipment shall be promptly repaired or replaced; and

(9) exposure reports and documentation shall be available for review.

(f) Only personnel designated as qualified by the medical staff shall use the radiology equipment and administer procedures.

(g) LSRH personnel shall provide radiologic services only on the order of individuals granted privileges by the medical staff.

(h) A qualified full-time, part-time, or consulting radiologist shall supervise the ionizing radiologic services and shall interpret radiology tests that are determined by the medical staff to require a radiologist's specialized knowledge. For purposes of this section a radiologist is a physician who is qualified by education and experience in radiology in accordance with medical staff bylaws.

(i) An LSRH shall maintain records of radiologic services. The radiologist or other individuals in accordance with subsections (f) and (h) of this section shall sign reports of their interpretations.

(j) A physician or other practitioner within the scope of their license and education shall read, date, sign, and authenticate all examination reports.

(k) The radiology department shall meet all applicable federal, state, and local laws, codes, rules, regulations, and ordinances.

(l) Procedure manuals shall include procedures for all examinations performed, infection control in the facility, treatment or examination rooms, dress code of personnel, and cleaning of equipment.

(m) When the LSRH provides nuclear medicine services, these services shall meet the needs of the patients in accordance with acceptable standards of practice and be licensed in accordance with 25 TAC §289.256 (relating to Medical and Veterinary Use of Radioactive Material).

(1) The LSRH shall adopt, implement, and enforce policies and procedures describing the LSRH's nuclear medicine services and how the LSRH maintains employee and patient safety with regard to these services.

(2) The organization of the nuclear medicine services shall be appropriate to the scope and complexity of the services offered.

(3) The LSRH shall have a medical director or clinical director who is a physician qualified in nuclear medicine.

(4) The medical director or clinical director shall specify the qualifications, training, functions, and responsibilities of nuclear medicine personnel and the medical staff shall approve them.

(5) Radioactive materials shall be prepared, labeled, used, transported, stored, and disposed of in accordance with acceptable standards of practice and in accordance with 25 TAC §289.256.

(6) In-house preparation of radiopharmaceuticals shall be by, or under, the direct supervision of an appropriately trained licensed pharmacist or physician.

(7) There shall be proper storage and disposal of radioactive materials.

(8) When nuclear medicine services staff perform clinical laboratory tests, the nuclear medicine staff shall comply with CLIA 1988 in accordance with the requirements specified in 42 CFR Part 493.

(9) Equipment and supplies shall be appropriate for the types of nuclear medicine services offered and shall be maintained for safe and efficient performance. Qualified personnel shall inspect, test, and calibrate the equipment at least annually.

(10) The LSRH shall maintain signed and dated reports of nuclear medicine interpretations, consultations, and procedures.

(11) The physician approved by the medical staff to interpret diagnostic procedures shall sign and date the interpretations of these tests.

(12) The LSRH shall maintain records of the receipt and disposition of radiopharmaceuticals until disposal is authorized by DSHS in accordance with 25 TAC §289.256.

(13) Only an individual whose scope of state licensure and whose defined staff privileges allow referrals to nuclear medicine services shall order such services.

*§511.49. Medical Director.*

(a) The medical director shall be on-site at the limited services rural hospital (LSRH) when necessary to fulfill the responsibilities of the position, as described by this chapter and the LSRH's governing body.

(b) Notwithstanding subsection (a) of this section, each LSRH's medical director shall be on-site at the LSRH for at least 12 hours per month.

(c) The medical director's responsibilities shall include:

(1) organizing the emergency services to be provided at the LSRH;

(2) supervising and overseeing the infection control program, quality assessment and performance improvement program, and patient safety program; and

(3) regularly attending meetings of the infection control program, quality assessment and performance improvement program, and patient safety program.

(d) The medical director shall have the authority to contract with outside persons for the performance of the LSRH's peer review activities as necessary.

(e) The medical director shall be a physician licensed to practice medicine in Texas.

*§511.50. Medical Staff.*

(a) A limited services rural hospital (LSRH) shall have an organized medical staff that operates under bylaws approved by the LSRH's governing body, and which is responsible for the quality of medical care provided to patients by the LSRH.

(b) The medical staff shall be composed of physicians and may also include podiatrists, dentists, and other practitioners appointed by the LSRH's governing body.

(c) The medical staff shall be well-organized, in a manner approved by the LSRH's governing body, and accountable to the governing body for the quality of the medical care provided to patients.

(d) The responsibility for organization and conduct of the medical staff must be assigned to a physician.

(e) When an LSRH is part of a system consisting of multiple separately certified hospitals, critical access hospitals, or LSRHs, and the system elects to have a unified and integrated medical staff, each separately certified LSRH must demonstrate:

(1) the decision to have a unified and integrated medical staff is in accordance with all applicable state and local laws;

(2) the medical staff members of each separately certified LSRH in the system (that is, all medical staff members who hold specific privileges to practice at that LSRH) have voted by majority, in accordance with medical staff bylaws, either to accept a unified and integrated medical staff structure or to opt out of such a structure and to maintain a separate and distinct medical staff for their respective LSRH;

(3) the unified and integrated medical staff has bylaws, rules, and requirements describing:

(A) its processes for self-governance, appointment, credentialing, privileging, and oversight;

(B) its peer review policies and due process rights guarantees; and

(C) a process to advise the members of the medical staff of each separately certified LSRH (that is, all medical staff members who hold specific privileges to practice at that LSRH) of their right to opt out of the unified and integrated medical staff structure in accordance with paragraph (2) of this subsection;

(4) the unified and integrated medical staff is established in a manner that considers each member LSRH's unique circumstances and any significant differences in patient populations and services offered in each hospital, critical access hospital (CAH), and LSRH;

(5) the unified and integrated medical staff establishes and implements policies and procedures to ensure that the needs and concerns expressed by members of the medical staff, at each of its separately certified hospitals, CAHs, and LSRHs, regardless of practice or location, are given due consideration; and

(6) the unified and integrated medical staff has mechanisms in place to ensure that issues localized to particular hospitals, CAHs, and LSRHs are duly considered and addressed.

(f) The medical staff shall periodically conduct appraisals of its members according to medical staff bylaws.

(g) The medical staff shall examine credentials of a candidate for medical staff membership and make a recommendation to the LSRH's governing body on the candidate's appointment.

(h) When the medical staff has an executive committee, a majority of the members of the committee must be doctors of medicine or osteopathy.

(i) An LSRH shall maintain records of medical staff meetings.

(j) The medical staff shall adopt, implement, and enforce written bylaws, rules, and regulations to carry out its responsibilities. The bylaws shall:

(1) be approved by the governing body;

(2) include a statement of the duties and privileges of each category of medical staff (for example, active, courtesy, etc.);

(3) describe the organization of the medical staff;

(4) describe the candidate qualifications needed for the medical staff to recommend the candidate's appointment by the governing body; and

(5) include criteria for granting privileges to individual practitioners and a procedure for applying the criteria to individuals requesting privileges. For distant-site physicians and practitioners requesting privileges to provide telemedicine services under an agreement with the LSRH, the criteria for determining privileges and the procedure for applying the criteria are also subject to the requirements in the Code of Federal Regulations Title 42 (42 CFR) §485.510(a)(8) and §485.512(a)(9).

(k) To be privileged as an emergency room physician, the physician shall:

(1) be currently board certified in emergency medicine; or

(2) have a minimum of one year experience in emergency services and current certification in advanced cardiac life support, pediatric advanced life support, and advanced trauma life support.

(l) The LSRH shall comply with applicable telemedicine requirements in 42 CFR §485.512.

§511.51. *Provision of Services.*

(a) The limited services rural hospital (LSRH) shall adopt, implement, train, and enforce written policies to ensure all provided services are consistent with accepted professional standards and practice and compliance in accordance with applicable federal and state law.

(b) The LSRH must develop policies with the advice of members of the LSRH's professional health care staff, including:

(1) one or more physicians; and

(2) one or more of the following if they are on staff under the provisions of Code of Federal Regulations Title 42 (42 CFR) §485.528(b)(1):

(A) physician assistants; or

(B) advanced practice registered nurses.

(c) The policies must include:

(1) a description of the services the LSRH provides, including those provided through agreement or arrangement;

(2) policies and procedures for emergency medical services;

(3) guidelines for the medical management of health problems, including:

(A) conditions requiring medical consultation or patient referral;

(B) maintenance of health care records; and

(C) procedures for the periodic review and evaluation of LSRH services; and

(4) policies and procedures that address the post-acute care needs of patients receiving services in the LSRH.

(d) The group of professional personnel described in subsection (b) of this section must review and update the policies as necessary, but at least biennially.

§511.52. *Surgical Services within the Scope of the Practice of Emergency Medicine.*

(a) A limited services rural hospital (LSRH) shall limit the surgical procedures performed at the LSRH to procedures the governing body approved upon the medical staff's recommendation.

(b) Adequate supervision of surgical procedures conducted in the LSRH shall be:

(1) a responsibility of the governing body;

(2) recommended by medical staff; and

(3) provided by appropriate medical staff.

(c) An LSRH shall only perform surgical procedures when:

(1) a physician, dentist, podiatrist, or other practitioner licensed to perform surgical procedures in Texas performs the procedure;

(2) the governing body granted privileges to the physician, dentist, podiatrist, or other practitioner, practicing within the scope of their license and education, to perform surgical procedures;

(3) the LSRH's medical staff recommended the surgical procedure; and

(4) the governing body has medically reviewed the physician's, dentist's, podiatrist's, or other practitioner's documented education, training, experience, and current competence.

(d) An LSRH shall periodically review surgical procedures to be performed in the LSRH as part of the peer review portion of the LSRH's quality assessment and performance improvement program by physically observing planned surgical procedures.

(e) An LSRH shall incorporate an appropriate patient history, physical examination, and pertinent preoperative diagnostic studies into the patient's medical record before surgical procedures.

(f) Unless otherwise provided by law, the LSRH shall discuss the proposed surgical procedure's necessity or appropriateness, as well as any available alternative treatment techniques, with the patient or the patient's legally authorized representative, as applicable, before the surgical procedure.

(g) Unless otherwise provided by law, the LSRH shall obtain the informed consent of the patient or, if applicable, of the patient's legally authorized representative before a surgical procedure is performed. When the LSRH is unable to obtain informed consent before an emergency surgery, the LSRH shall document in the patient's medical record the reason or reasons why the LSRH was unable to obtain the informed consent.

(h) With the exception of those tissues exempted by the governing body after medical review, a pathologist shall examine tissues removed and sign or authenticate the report of the examination for the patient's medical record.

(i) A description of the findings and techniques of surgical procedures shall be accurately and completely incorporated into the patient's medical record immediately after the procedure by the physician or practitioner who performed the procedure. If the description is dictated, an accurate written summary shall be immediately available to the physicians and practitioners providing patient care and shall become a part of the patient's medical record.

(j) The LSRH shall allow patients who have received anesthesia, other than solely topical anesthesia, to leave the facility only in the company of a responsible adult, unless the physician, physician assistant, or an advanced practice registered nurse writes an order that the patient may leave without the company of a responsible adult.

§511.54. *General Outpatient Requirements.*

(a) In addition to providing emergency services and observation care, a limited services rural hospital (LSRH) may provide outpatient and medical health diagnostic and therapeutic items and services that are commonly furnished in a physician's office or at another entry point into the health care delivery system that include: radiology, laboratory, outpatient rehabilitation, surgical, maternal health, and behavioral health services. If an LSRH provides additional outpatient and medical health diagnostic and therapeutic items and services, the LSRH shall comply with the requirements of this section.

(b) The outpatient and medical health diagnostic and therapeutic items and services the LSRH provides shall:

(1) align with the health needs of the community served by the LSRH; and

(2) be appropriately organized and meet the needs of the patients in accordance with acceptable standards of practice.

(c) The LSRH shall:

(1) provide items and services based on nationally recognized guidelines and standards of practice;

(2) have a system in place for referral from the LSRH to different levels of care, including follow-up care, as appropriate;

(3) have effective communication systems in place between the LSRH and the patient (or responsible individual) and their family, ensuring that the LSRH is responsive to their needs and preferences;

(4) have established relationships with hospitals that have the resources and capacity available to deliver care that is beyond the scope of care delivered at the LSRH; and

(5) have personnel providing these services who meet the requirements in subsection (d) of this section.

(d) The LSRH shall meet the following personnel requirements for outpatient services.

(1) The LSRH shall assign one or more individuals to be responsible for outpatient services.

(2) The LSRH shall have appropriate professional and non-professional personnel available at each location where outpatient services are offered, based on the scope and complexity of outpatient services.

(3) For any specialty services offered at the LSRH, the LSRH shall have a physician, advanced practice registered nurse, or physician assistant providing services with experience and training in the specialty service area and in accordance with their scope of practice.

(e) Outpatient medical and health services shall be ordered by a practitioner who is:

(1) responsible for the care of the patient for whom the practitioner is ordering the services;

(2) licensed in the state of Texas;

(3) acting within their scope of practice under state law;

(4) authorized, in accordance with state law and policies adopted by the medical staff; and

(5) approved by the governing body, to order the applicable outpatient services and either:

(A) appointed to the LSRH's medical staff and who have been granted privileges to order the applicable outpatient services; or

(B) not appointed to the medical staff, but who satisfy the requirements for authorization by the medical staff and the LSRH for ordering the applicable outpatient services for their patients.

§511.55. *Surgical Services.*

(a) If a limited services rural hospital (LSRH) performs outpatient surgical services, emergency surgical services, or both, the LSRH shall comply with this section.

(b) The LSRH's governing body, on recommendation of the LSRH's medical staff, shall approve surgical procedures performed in the LSRH.

(c) Surgical services shall be well-organized and provided in accordance with acceptable standards of practice.

(d) An LSRH shall provide adequate space, equipment, and personnel to ensure a safe environment for treating patients during surgical procedures, including adequate safeguards to protect the patient from cross infection.

(e) The organization of the surgical services shall be appropriate for the scope of the services offered.

(f) The LSRH shall periodically review surgical procedures performed in the LSRH as part of the LSRH's quality assessment and performance improvement program.

(g) Appropriate medical staff shall provide adequate supervision of surgical procedures conducted in the LSRH under the recommendation of medical staff and approval of the governing body.

(h) The LSRH shall establish a written procedure for observation and care of the patient during and after surgical procedures.

(i) The LSRH shall establish written protocols for instructing patients in self-care after surgical procedures, including written instructions to be given to patients who receive conscious sedation, regional anesthesia, or both.

(j) The LSRH shall develop an effective written procedure for the immediate transfer to a hospital of patients requiring emergency care beyond the capabilities of the LSRH. The LSRH shall have a written transfer agreement with a hospital as set forth in §511.65 of this subchapter (relating to Patient Transfer Policy).

(k) Surgical procedures shall be performed only by a physician, dentist, podiatrist, or practitioner, practicing within the scope of their license and education, who:

(1) is licensed to perform surgical procedures in Texas; and

(2) has been granted privileges to perform those procedures by the governing body, upon the recommendation of the medical staff, and after medical review of the physician's, dentist's, podiatrist's, or practitioner's documented education, training, experience, and current competence.

(l) The LSRH shall designate the practitioners who are allowed to perform surgery for LSRH patients, in accordance with its approved policies and procedures, and with state scope of practice laws.

(m) The LSRH shall provide adequate staff during surgical procedures.

(1) The operating rooms shall be supervised by an experienced registered nurse (RN) or physician.

(2) Licensed vocational nurses (LVNs) and surgical technologists (operating room technicians) may serve as scrub nurses or technologists only under the supervision of an RN.

(3) Circulating duties in the operating room must be performed by qualified RNs. In accordance with approved medical staff policies and procedures, LVNs and surgical technologists may assist in circulatory duties only under the direct supervision of a qualified RN circulator.

(4) The LSRH shall delineate surgical privileges for all physicians, podiatrists, and dentists performing surgery in accordance with the competencies of each. The surgical services department shall maintain a roster specifying the surgical privileges of each.

(5) If the LSRH employs surgical technologists, the LSRH shall adopt, implement, and enforce policies and procedures to comply with Texas Health and Safety Code Chapter 259 (relating to Surgical Technologists at Health Care Facilities).

(6) Licensed nurses and other personnel assisting in the provision of surgical services shall be appropriately trained and supervised and shall be available in sufficient numbers for the surgical care provided.

(n) Preoperative laboratory procedures may be required as follows.

(1) It shall be at the discretion of the governing body and the medical staff to require preoperative laboratory orders.

(2) If specific preoperative laboratory work is required, the medical staff shall approve them in accordance with the medical staff bylaws. Specific preoperative laboratory work shall be performed only on the order of a physician, podiatrist, dentist, or other practitioner, who is practicing within the scope of their license and education, and written on the patient's chart.

(3) These services shall be provided either directly within or through an effective contract arrangement with a Medicare-approved reference laboratory.

(4) The contractual agreement with the Medicare-approved reference laboratory shall provide for routine and stat work to include pathology, clinical, and blood bank services, and shall be available for review.

(o) Surgical services shall be consistent with needs and resources. Written policies governing surgical care that are designed to ensure the achievement and maintenance of high standards of medical practice and patient care shall be adopted, implemented, and enforced.

(p) There shall be a complete medical history and physical examination, as required under subsections (s) and (t) of this section, in the medical record of every patient prior to surgery, except in emergencies. If this has been dictated verbally, but not yet transcribed in the patient's medical record, there shall be a statement to that effect and an admission note in the record by the individual who admitted the patient.

(q) A properly executed informed consent form for the operation shall be in the patient's medical record before surgery, except in emergencies.

(r) A "time out" shall be conducted before starting the procedure to confirm that the correct patient, site, and procedure have been identified, and that all required documents and equipment are available and ready for use.

(s) A qualified practitioner, as specified in subsection (k) of this section, must examine the patient immediately before surgery to evaluate the risk of the procedure to be performed.

(t) A qualified practitioner, as specified in subsection (k) of this section, must examine each patient before surgery to evaluate the risk of anesthesia.

(u) All persons shall use acceptable aseptic techniques in accordance with the LSRH's chosen infection control standards.

(v) Each treatment or examination room shall be designed and equipped so that the types of surgical procedures conducted can be performed in a manner that protects the lives and ensures the physical safety of all persons in the area.

(w) The facility shall implement environmental controls that ensure a safe and sanitary environment.

(x) Written policies and procedures for decontamination, disinfection, sterilization, and storage of sterile supplies shall be adopted, implemented, and enforced as described in §511.73 of this subchapter (relating to Sterilization).

(1) Performance records for all sterilizers shall be maintained for a period of six months.

(2) The LSRH shall maintain appropriate supplies to prevent immediate use sterilization.

(3) Preventive maintenance of all sterilizers shall be completed according to manufacturer's recommendations on a scheduled basis. A preventive maintenance record shall be maintained for each sterilizer. An LSRH shall retain these records for at least one year and shall ensure their availability for review at the facility within two hours of HHSC's request.

(y) Emergency power adequate for the type of surgical procedures performed shall be available.

(z) Periodic calibration and preventive maintenance of all equipment shall be provided in accordance with manufacturer's guidelines.

(aa) The following equipment shall be available in the operating room suites:

- (1) communication system;
- (2) cardiac monitor;
- (3) resuscitator;
- (4) defibrillator;
- (5) aspirator; and
- (6) tracheotomy set.

(bb) If flammable agents are present in a treatment/examination room, the room shall be constructed and equipped in compliance with standards established by the National Fire Protection Association (NFPA 99, Annex 2, Flammable Anesthetizing Locations, 1999) and with applicable state and local fire codes.

(cc) If nonflammable agents are present in a treatment/examination room, the room shall be constructed and equipped in compliance with standards established by the National Fire Protection Association (NFPA 99, Chapters 4 and 8, 1999) and with applicable state and local fire codes.

(dd) There shall be adequate provisions for immediate postoperative care.

(ee) The operating room register shall be complete and up-to-date. The register shall contain, but not be limited to, the following:

- (1) patient's name and hospital identification number;
- (2) date of operation;
- (3) operation performed;
- (4) operating surgeon and assistant(s);
- (5) type of anesthesia used and name of person administering it;
- (6) time operation began and ended;
- (7) time anesthesia began and ended;
- (8) disposition of specimens;
- (9) names of scrub and circulating personnel;
- (10) unusual occurrences; and
- (11) disposition of the patient.

(ff) An operative report describing techniques, findings, and tissue removed or altered shall be written or dictated immediately following surgery and signed by the surgeon.

(gg) Before discharge from the LSRH, each patient must be evaluated for proper anesthesia recovery by a qualified practitioner, as specified in subsection (k) of this section, as applicable.

(hh) All patients are discharged in the company of a responsible adult, except those exempted by the practitioner who performed the surgical procedure.

*§511.56 Anesthesia Services.*

(a) The anesthesia services must be provided:

- (1) in a well-organized manner;
- (2) under the direction of a qualified physician approved by the governing body; and
- (3) in accordance with Texas Occupations Code Title 3, Subtitle B (relating to Physicians) and Texas Occupations Code Chapter 301 (relating to Nurses).

(b) The LSRH is responsible for and shall document all anesthesia services administered in the LSRH.

(c) The organization of anesthesia services shall be appropriate to the scope of the services offered.

(d) Only personnel who have been approved by the LSRH to provide anesthesia services shall administer anesthesia. All approvals or delegations of anesthesia services as authorized by law shall be documented and include the training, experience, and qualifications of the person who provided the service. On the order of a physician, podiatrist, dentist, or other authorized practitioner practicing within the scope of their license and education, a qualified registered nurse (RN) who is not a certified registered nurse anesthetist (CRNA), may administer topical anesthesia, local anesthesia, minimal sedation, and moderate sedation, in accordance with all applicable rules, polices, directives, and guidelines issued by the Texas Board of Nursing. When an RN who is not a CRNA administers sedation, as permitted in this subsection, the LSRH shall:

- (1) verify that the RN has the requisite training, education, and experience;
- (2) maintain documentation to support that the RN has demonstrated competency in the administration of sedation;

(3) with input from the facility's qualified anesthesia providers, develop, implement, and enforce detailed written policies and procedures to guide the RN; and

(4) ensure that, when administering sedation during a procedure, the RN has no other duties except to monitor the patient.

(e) Anesthesia shall not be administered unless the physician has evaluated the patient immediately before the procedure to assess the risk of the anesthesia and of the procedure to be performed.

(f) The medical staff shall develop written policies and practice guidelines for the anesthesia service, which shall be adopted, implemented, and enforced by the governing body. The policies and guidelines shall include consideration of the applicable practice standards and guidelines of the American Society of Anesthesiologists, the American Association of Nurse Anesthetists, and the licensing rules and standards applicable to those categories of licensed professionals qualified to administer anesthesia.

(g) Anesthesia services shall be consistent with needs and resources. Policies on anesthesia procedures shall include the delineation of pre-anesthesia and post-anesthesia responsibilities. The policies shall ensure that the following are provided for each patient.

(1) A pre-anesthesia evaluation by an individual qualified to administer anesthesia under subsection (e) of this section shall be performed within 48 hours before surgery.

(2) An intraoperative anesthesia record shall be provided. The record shall include any complications or problems occurring during the anesthesia, including time, description of symptoms, review of affected systems, and treatments rendered. The record shall correlate with the controlled substance administration record.

(3) A post-anesthesia follow-up report shall be written by the person administering the anesthesia before transferring the patient from the post-anesthesia care unit and shall include evaluation for recovery from anesthesia, level of activity, respiration, blood pressure, level of consciousness, and patient's oxygen saturation level.

(4) Immediately prior to discharge, a post-anesthesia evaluation for proper anesthesia recovery shall be performed by the person administering the anesthesia, by an RN, within the scope of their license and education, or physician in accordance with policies and procedures approved by the medical staff and using criteria written in the medical staff bylaws for postoperative monitoring of anesthesia.

(h) Anesthesia services provided in the LSRH shall be limited to those that are recommended by the medical staff and approved by the governing body, which may include the following.

(1) Topical anesthesia--An anesthetic agent applied directly or by spray to the skin or mucous membranes, intended to produce transient and reversible loss of sensation to the circumscribed area.

(2) Local anesthesia--Administration of an agent that produces a transient and reversible loss of sensation to a circumscribed portion of the body.

(3) Regional anesthesia--Anesthetic injected around a single nerve, a network of nerves, or vein that serves the area involved in a surgical procedure to block pain.

(4) Minimal sedation (anxiolysis)--A drug-induced state during which patients respond normally to oral commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are unaffected.

(5) Moderate sedation/analgesia ("conscious sedation")--A drug-induced depression of consciousness during which patients respond purposefully to oral commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. (Reflex withdrawal from a painful stimulus is not considered a purposeful response.)

(6) Deep sedation/analgesia--A drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. (Reflex withdrawal from a painful stimulus is not considered a purposeful response.)

(i) Patients who have received anesthesia shall be evaluated for proper anesthesia recovery by the physician or the person administering the anesthesia before discharge using criteria approved by the medical staff.

(j) Patients shall be evaluated immediately before leaving the facility by a physician, the person administering the anesthesia, or an RN acting in accordance with physician's orders and written policies, procedures, and criteria developed by the medical staff.

(k) Emergency equipment and supplies appropriate for the type of anesthesia services provided shall be maintained and accessible to staff at all times. Functioning equipment and supplies that are required for all LSRHs include the following:

- (1) suctioning equipment, including a source of suction and suction catheters in appropriate sizes for the population being served;
- (2) source of compressed oxygen;
- (3) basic airway management equipment, including oral and nasal airways, face masks, and self-inflating breathing bag valve set;
- (4) blood pressure monitoring equipment; and
- (5) emergency medications specified by the medical staff and appropriate to the type of procedures and anesthesia services provided by the facility.

(l) In addition to the equipment and supplies required under subsection (1) of this section, an LSRH that provides moderate sedation/analgesia, deep sedation/analgesia, or regional analgesia shall provide the following:

- (1) intravenous equipment, including catheters, tubing, fluids, dressing supplies, and appropriately sized needles and syringes;
- (2) advanced airway management equipment, including laryngoscopes and an assortment of blades, endotracheal tubes, and stylets in appropriate sizes for the population being served;
- (3) a mechanism for monitoring blood oxygenation, such as pulse oximetry;
- (4) electrocardiographic monitoring equipment;
- (5) cardiac defibrillator; and
- (6) pharmacologic antagonists as specified by the medical staff and appropriate to the type of anesthesia services provided.

(m) The advanced practice registered nurse, the anesthesiologist, or the operating surgeon shall be available until the surgeon's patients operated on that day have been discharged from the post-anesthesia care unit.

(n) Patients who have received anesthesia shall be evaluated for proper anesthesia recovery in accordance with subsection (g) of this section prior to discharge from the post-anesthesia care unit using criteria approved by the medical staff.

(o) Patients who remain in the facility for extended observation following discharge from the post-anesthesia care unit shall be evaluated immediately prior to leaving the facility by a physician, the person administering the anesthesia, or a registered nurse acting in accordance with physician's orders and written policies, procedures, and criteria developed by the medical staff.

(p) A physician shall be on call and able to respond physically or by telephone within 30 minutes until all patients have been discharged from the LSRH.

*§511.60. Staffing and Staff Responsibilities.*

(a) The LSRH must have a professional health care staff that includes one or more physicians, and may include one or more physician assistants, or advanced practice registered nurses (APRN).

(b) Any ancillary personnel are supervised by the professional staff.

(c) There shall be a written delineation of functions, qualifications, and patient care responsibilities for all categories of personnel.

(d) The LSRH shall maintain documentation of evidence that all personnel are trained prior to treatment of services.

(e) The staff shall be sufficient to provide the services essential to the operation of the LSRH.

(f) A nurse shall be on duty whenever the LSRH has one or more patients receiving emergency care or observation care.

(g) If the LSRH provides outpatient services, the services shall meet the needs of the patients in accordance with acceptable standards of practice.

(1) The LSRH shall assign an individual to be responsible for outpatient services.

(2) The LSRH shall have appropriate physicians on staff and other professional and nonprofessional personnel available.

(3) The physician must:

(A) provide medical direction for the LSRH's health care activities and consultation for, and medical supervision of, the health care staff;

(B) participate, in conjunction with any physician assistant or nurse practitioner members, in developing, executing, and periodically reviewing the LSRH's written policies governing the services it furnishes;

(C) review periodically, in conjunction with any physician assistant or nurse practitioner members, the LSRH patient records, provide medical orders, and provide medical care services to the patients of the LSRH; and

(D) review periodically and sign a sample of outpatient records of patients cared for by APRN or physician assistants only to the extent where state law requires record reviews or co-signatures, or both, by a collaborating physician.

(h) A physician must be present for sufficient periods of time to provide medical direction, consultation, and supervision for the services provided in the LSRH, and is available through direct radio or telephone communication or electronic communication for consultation, assistance with medical emergencies, or patient referral.

(i) The physician assistant, the nurse practitioner, or clinical nurse specialist members of the LSRH staff shall:

(1) participate in the development, execution and periodic review of the written policies governing the services the LSRH furnishes; and

(2) participate with a physician in a periodic review of the patients' health records.

(j) The physician assistant, nurse practitioner, or clinical nurse specialist shall perform the following functions to the extent they are not being performed by a physician:

(1) provides services in accordance with the LSRH's policies; and

(2) arranges for, or refers patients to, needed services that cannot be furnished at the LSRH, and assures that adequate patient health records are maintained and transferred as required when patients are referred.

(k) Whenever a patient is placed in observation care at the LSRH by a nurse practitioner, physician assistant, or clinical nurse specialist, a physician on the staff of the LSRH is notified of the patient's status.

(l) When required by law, the quality and appropriateness of the diagnosis and treatment furnished by nurse practitioners, clinical nurse specialists, and physician assistants at the LSRH must be evaluated by a member of the LSRH staff who is a physician or by another physician under contract with the LSRH.

(m) The quality and appropriateness of the diagnosis and treatment provided by a physician at the LSRH must be evaluated by one of the following:

(1) One Quality Improvement Organization (QIO) or equivalent entity;

(2) in the case of distant-site physicians and practitioners providing telemedicine services to the LSRH's patient under an agreement between the LSRH and a distant-site hospital, the distant-site hospital; or

(3) in the case of distant-site physicians and practitioners providing telemedicine services to the LSRH's patients under a written agreement between the LSRH and a distant-site telemedicine entity, one QIO or equivalent entity.

(n) The LSRH staff shall consider the findings of the evaluation and make the necessary changes as specified in Code of Federal Regulations Title 42 §485.528 (b) - (d) (relating to Condition of participation: Staffing and staff responsibilities).

(o) There shall be an organized nursing service under the direction of a qualified registered nurse (RN). The LSRH shall be staffed to assure that the nursing needs of all patients are met.

(p) There shall be a written plan of administrative authority for all nursing services with responsibilities and duties of each category of nursing personnel delineated and a written job description for each category. The scope of nursing service shall include nursing care rendered to patients preoperatively, intraoperatively, and postoperatively.

(1) The responsible individual for nursing services shall be a qualified RN whose responsibility and authority for nursing service shall be clearly defined and includes supervision of both personnel performance and patient care.

(2) There shall be a written delineation of functions, qualifications, and patient care responsibilities for all categories of nursing personnel.

(3) Surgical technicians and licensed vocational nurses may be permitted to serve in the scrub nurse role under the direct supervision of an RN; they shall not be permitted to function as circulating nurses in the operating rooms. Licensed vocational nurses and surgical technicians may assist in circulatory duties under the direct supervision of a qualified RN.

(4) Nursing services shall be provided in accordance with current recognized standards or recommended practices.

(5) The LSRH shall adopt, implement and enforce policies and procedures to comply with Texas Health and Safety Code Chapter 259 (relating to Surgical Technologists at Health Care Facilities).

(6) There shall be an adequate number of RNs on duty to meet the following minimum staff requirements: director of the department (or designee), and supervisory and staff personnel for each service area to assure the immediate availability of an RN for emergency care or for any patient when needed.

(7) An RN shall assign the nursing care of each patient to other nursing personnel in accordance with the patient's needs and the preparation and qualifications of the nursing staff available.

(8) There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the service of an RN.

(9) An RN qualified, at a minimum, with current certification in advanced cardiac life support and pediatric advanced life support shall be on duty and on the premises at all times whenever patients are present in the LSRH.

(q) All direct patient care staff must have current certification in basic cardiac life support.

(r) In addition to meeting the requirements for nursing staff under subsections (p) and (q) of this section, LSRHs shall comply with the following staffing requirements.

(1) LSRHs that provide only topical anesthesia, local anesthesia, or minimal sedation are required to have a second individual on duty on the premises who is trained and currently certified in basic cardiac life support until all patients have been discharged from the facility.

(2) LSRHs that provide moderate sedation/analgesia are required to have the following additional staff:

(A) a second individual on duty on the premises who is trained and currently certified in basic cardiac life support until all patients have been discharged from the facility; and

(B) an individual trained and currently certified in advanced cardiac life support and, if surgery is performed on pediatric patients, pediatric advanced life support shall be available until all patients have been discharged from the post-anesthesia care unit.

(s) LSRHs that provide deep sedation/analgesia, general anesthesia, or regional anesthesia shall have the following additional staff:

(1) a second individual on duty on the premises who is trained and currently certified in basic cardiac life support until all patients have been discharged from the facility; and

(2) an individual who is trained and currently certified in advanced cardiac life support and, if surgery is performed on pediatric patients, pediatric advanced life support shall be on duty on the premises and sufficiently free of other duties to enable the individual

to respond rapidly to emergency situations until all patients have been discharged from the post-anesthesia care unit.

(t) As applicable, the LSRH shall establish a nursing peer review committee to conduct nursing peer review, as required by Texas Occupations Code Chapter 303 (relating to Nursing Peer Review).

§511.61. *Nursing Services.*

(a) A limited services rural hospital (LSRH) shall have a well-organized nursing service with a plan of administrative authority and delineation of responsibilities for patient care and provides 24-hour nursing services as needed.

(b) An LSRH shall provide nursing services in accordance with current recognized standards or recommended practices.

(c) Nursing services shall be under the administrative authority of a chief nursing officer (CNO) who is a registered nurse (RN).

(1) The CNO shall be responsible for the operation of nursing services, including determining the types and numbers of nursing personnel and staff necessary to provide nursing care for all areas of the LSRH.

(2) The CNO shall report directly to the individual who has authority to represent the LSRH and who is responsible for the operation of the LSRH according to the policies and procedures of the LSRH's governing board.

(3) The CNO shall participate with the governing body, medical staff, and clinical areas, in planning, promoting and conducting performance improvement activities.

(d) An LSRH shall adopt, implement and enforce a procedure to verify nursing personnel for whom licensure is required have valid and current licensure.

(e) An LSRH shall comply with the following nursing staff requirements.

(1) The LSRH shall have adequate numbers of RNs, licensed vocational nurses (LVNs), and other personnel to provide nursing care to all patients as needed in accordance with subsection (f) of this section.

(2) The LSRH shall have an adequate number of RNs on duty to meet the LSRH's minimum staff requirements in accordance with subsection (f)(2) of this section to include supervisory and staff RNs to ensure the immediate availability of an RN for emergency care or for any patient when needed.

(3) The nursing staff shall develop and keep current a nursing plan of care for each patient which addresses the patient's needs.

(4) The LSRH shall establish a nurse staffing committee as a standing committee of the LSRH. The committee shall be established in accordance with Texas Health and Safety Code (HSC) Chapter 161, Subchapter D (relating to Medical Committees, Medical Peer Review Committees, and Compliance Officers), to be responsible for soliciting and receiving input from nurses on the development, ongoing monitoring, and evaluation of the staffing plan. As used in this section, "committee" or "staffing committee" means a nurse staffing committee established under this paragraph.

(f) An LSRH shall adopt, implement, and enforce a written official nurse services staffing plan. As used in this subsection, "patient care unit" means a unit or area of an LSRH in which registered nurses provide patient care.

(1) The official nurse services staffing plan and policies shall:

(A) require significant consideration to be given to the nurse staffing plan recommended by the LSRH's nurse staffing committee and the committee's evaluation of any existing plan;

(B) be based on the needs of each patient care unit and shift and on evidence relating to patient care needs;

(C) require use of the official nurse services staffing plan as a component in setting the nurse staffing budget;

(D) encourage nurses to provide input to the nurse staffing committee relating to nurse staffing concerns;

(E) protect from retaliation nurses who provide input to the nurse staffing committee;

(F) reflect current standards established by private accreditation organizations, governmental entities, national nursing professional associations, and other health professional organizations and should be developed based upon a review of the codes of ethics developed by the nursing profession through national nursing organizations; and

(G) comply with this section.

(2) The plan shall set minimum staffing levels for patient care units that are:

(A) based on multiple nurse and patient considerations including:

(i) patient characteristics and number of patients for whom care is being provided, including number of admissions, discharges, and transfers on a unit;

(ii) intensity of patient care being provided and variability of patient care across a nursing unit;

(iii) scope of services provided;

(iv) context within which care is provided, including architecture and geography of the environment, and the availability of technology; and

(v) nursing staff characteristics, including staff consistency and tenure, preparation and experience, and the number and competencies of clinical and non-clinical support staff the nurse must collaborate with or supervise;

(B) determined by the nursing assessment and in accordance with evidence-based safe nursing standards; and

(C) recalculated at least annually, or as necessary.

(3) The plan shall include:

(A) a method for adjusting the staffing plan shift to shift for each patient care unit based on factors, such as, the intensity of patient care to provide staffing flexibility to meet patient needs;

(B) a contingency plan when patient care needs unexpectedly exceed direct patient care staff resources;

(C) how on-call time will be used;

(D) a mechanism for evaluating the effectiveness of the official nurse services staffing plan based on patient needs, nursing sensitive quality indicators, nurse satisfaction measures collected by the LSRH, and evidence-based nurse staffing standards, which must include at least one from each of the following three types of outcomes shall be correlated to the adequacy of staffing:

(i) nurse-sensitive patient outcomes selected by the nurse staffing committee, such as, patient falls, adverse drug events, injuries to patients, skin breakdown, pneumonia, infection rates, upper

gastrointestinal bleeding, shock, cardiac arrest, length of stay, or patient readmissions;

(ii) operational outcomes, such as, work-related injury or illness, vacancy and turnover rates, nursing care hours per patient day, on-call use, or overtime rates; and

(iii) substantiated patient complaints related to staffing levels;

(E) a process that facilitates the timely and effective identification of concerns about the adequacy of the staffing plan by the nurse staffing committee, which includes:

(i) a prohibition on retaliation for reporting concerns;

(ii) a requirement that nurses report concerns timely through appropriate channels within the LSRH;

(iii) orientation of nurses on how to report concerns and to whom;

(iv) encouraging nurses to provide input to the committee relating to nurse staffing concerns;

(v) review, assessment, and response by the committee to staffing concerns expressed to the committee;

(vi) a process for providing feedback during the committee meeting on how concerns are addressed by the committee; and

(vii) use of the nurse safe harbor peer review process pursuant to Texas Occupations Code §303.005 (relating to Request for Peer Review Committee Determination); and

(F) policies and procedures that require:

(i) orientation of nurses and other personnel who provide nursing care to all patient care units to which they are assigned on either a temporary or permanent basis;

(ii) the orientation of nurses and other personnel and the competency to perform nursing services is documented in accordance with LSRH policy; and

(iii) nursing assignments be congruent with documented competency.

(g) The LSRH shall use the staffing plan required under subsection (f) of this section as a component in setting the nurse staffing budget and guiding the LSRH in assigning nurses LSRH wide.

(h) The LSRH shall make readily available to nurses on each patient care unit at the beginning of each shift the official nurse services staffing plan levels and current staffing levels for that unit and that shift.

(i) There shall be a semiannual evaluation by the staffing committee of the effectiveness of the official nurse services staffing plan and variations between the staffing plan and actual staffing.

(1) The evaluation shall consider the outcomes and nursing-sensitive indicators as set out in subsection (f)(3)(D)(i) of this section, patient needs, nurse satisfaction measures collected by the LSRH, and evidence-based nurse staffing standards.

(2) The evaluation shall be documented in the minutes of the committee and presented to the LSRH governing body.

(3) The LSRH may determine whether the evaluation is done on a unit or facility level basis.

(4) To assist the committee with the semiannual evaluation, the LSRH shall report to the committee the variations between

the staffing plan and actual staffing. This report of variations shall be confidential.

(j) The LSRH shall retain each staffing plan for a period of two years.

(k) Nonemployee licensed nurses who are working in the LSRH shall adhere to the LSRH's policies and procedures. The LSRH's CNO shall provide for the adequate orientation, supervision, and evaluation of the clinical activities of nonemployee nursing personnel that occur within the responsibility of the nursing services.

(l) The LSRH shall annually report to the Texas Health and Human Services Commission on:

(1) whether the LSRH governing body has adopted a nurse staffing policy;

(2) whether the LSRH has established a nurse staffing committee that meets the requirements of subsection (e)(4) of this section;

(3) whether the nurse staffing committee has evaluated the LSRH official nurse services staffing plan and has reported the results of the evaluation to the LSRH's governing body; and

(4) the nurse-sensitive outcome measures the committee adopted for use in evaluating the LSRH official nurse services staffing plan.

(m) The LSRH shall adopt, implement and enforce policies on use of mandatory overtime. The policies shall comply with the following requirements.

(1) As used in this subsection:

(A) "on-call time" means time spent by a nurse who is not working but who is compensated for availability; and

(B) "mandatory overtime" means a requirement that a nurse work hours or days that are in addition to the hours or days scheduled, regardless of the length of a scheduled shift or the number of scheduled shifts each week. Mandatory overtime does not include prescheduled on-call time or time immediately before or after a scheduled shift necessary to document or communicate patient status to ensure patient safety.

(2) An LSRH may not require a nurse to work mandatory overtime, and a nurse may refuse to work mandatory overtime.

(3) This subsection does not prohibit a nurse from volunteering to work overtime.

(4) An LSRH may not use on-call time as a substitute for mandatory overtime.

(5) The prohibitions on mandatory overtime do not apply if:

(A) a health care disaster, such as a natural or other type of disaster that increases the need for health care personnel, unexpectedly affects the county in which the nurse is employed or affects a contiguous county;

(B) a federal, state, or county declaration of emergency is in effect in the county in which the nurse is employed or is in effect in a contiguous county;

(C) there is an emergency or unforeseen event of a kind that:

(i) does not regularly occur;

(ii) increases the need for health care personnel at the LSRH to provide safe patient care; and

(iii) could not prudently be anticipated by the LSRH; or

(D) the nurse is actively engaged in an ongoing medical or surgical procedure and the continued presence of the nurse through the completion of the procedure is necessary to ensure the health and safety of the patient. The nurse staffing committee shall ensure that scheduling a nurse for a procedure that could be anticipated to require the nurse to stay beyond the end of his or her scheduled shift does not constitute mandatory overtime.

(6) If an LSRH determines that an exception exists under paragraph (5) of this subsection, the LSRH shall, to the extent possible, make and document a good faith effort to meet the staffing need through voluntary overtime, including calling per diem and agency nurses, assigning floats, or requesting an additional day of work from off-duty employees.

(7) An LSRH may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to work mandatory overtime.

(n) Drugs and biologicals shall be prepared and administered in accordance with federal and state laws, the orders of the individuals granted privileges by the medical staff, and accepted standards of practice.

(o) All drugs and biologicals shall be administered by, or under supervision of, nursing or other personnel in accordance with federal and state laws and regulations, including applicable licensing rules, and in accordance with the approved medical staff policies and procedures.

(p) All orders for drugs and biologicals shall be in writing, dated, timed, and signed by the individual responsible for the care of the patient as specified under §511.46(x) of this subchapter (relating to Radiologic Services). When telephone or verbal orders must be used, they shall be:

(1) accepted only by personnel who are authorized to do so by the medical staff policies and procedures, consistent with federal and state laws;

(2) dated, timed, and authenticated within 96 hours by the prescriber or another practitioner who is responsible for the care of the patient and has been credentialed by the medical staff and granted privileges that are consistent with the written orders; and

(3) used infrequently.

(q) There shall be an LSRH procedure for immediately reporting transfusion reactions, adverse drug reactions, and errors in administration of drugs to the attending physician and, if appropriate, to the LSRH-wide quality assessment and performance improvement program.

(r) Blood transfusions shall be prescribed in accordance with LSRH policy and administered in accordance with a written protocol for the administration of blood and blood components and the use of infusion devices and ancillary equipment.

(s) Personnel administering blood transfusions and intravenous medications shall have special training for this duty according to written, adopted, implemented, and enforced LSRH policy.

(t) Blood and blood components shall be transfused through a sterile, pyrogen-free transfusion set that has a filter designed to retain particles potentially harmful to the recipient.

(u) Nursing staff shall observe and monitor the patient during blood and blood component transfusions and for an appropriate time

thereafter as required by the LSRH's blood transfusion policy for suspected adverse reactions.

(v) Pretransfusion and posttransfusion vital signs shall be recorded.

(w) When warming of blood is indicated, this shall be accomplished during its passage through the transfusion set. The warming system shall be equipped with a visible thermometer and may have an audible warning system. Blood shall not be warmed above 42 degrees Centigrade.

(x) Drugs or medications, including those intended for intravenous use, shall not be added to blood or blood components. A 0.9% sodium chloride injection, United States Pharmacopeia, may be added to blood or blood components. Other solutions intended for intravenous use may be used in an administration set or added to blood or blood components under either of the following conditions:

(1) they have been approved for this use by the U.S. Food and Drug Administration; or

(2) there is documentation available to show that addition to the component involved is safe and efficacious.

(y) There shall be a system for detection, reporting, and evaluation of suspected complications of transfusion. Any adverse event experienced by a patient in association with a transfusion is to be regarded as a suspected transfusion complication. In the event of a suspected transfusion complication, the personnel attending the patient shall notify immediately a responsible physician and the transfusion service and document the complication in the patient's medical record. All suspected transfusion complications shall be evaluated promptly according to an established procedure.

(z) Following the transfusion, the blood transfusion record or a copy shall be made a part of the patient's medical record.

(aa) An LSRH shall adopt, implement, and enforce a policy to ensure the LSRH complies with Texas Occupations Code Chapter 301, Subchapter I (relating to Reporting Violations and Patient Care Concerns), and Chapter 303 (relating to Nursing Peer Review), and with the rules adopted by the Texas Board of Nursing in Texas Administrative Code Title 22 §217.16 (relating to Minor Incidents), §217.19 (relating to Incident-Based Nursing Peer Review and Whistleblower Protections), and §217.20 (relating to Safe Harbor Peer Review for Nurses and Whistleblower Protections).

(bb) The LSRH shall adopt, implement, and enforce policies and procedures related to the work environment for nurses which:

(1) improve workplace safety and reduce the risk of injury, occupational illness, and violence; and

(2) increase the use of ergonomic principles and ergonomically designed devices to reduce injury and fatigue.

(cc) The policies and procedures adopted under subsection (bb) of this section must address at least the following:

(1) evaluating new products and technology that incorporate ergonomic principles;

(2) educating nurses in the application of ergonomic practices;

(3) conducting workplace audits to identify areas of risk of injury, occupational illness, or violence and recommending ways to reduce those risks;

(4) controlling access to those areas identified as having a high risk of violence; and

(5) promptly reporting crimes committed against nurses to appropriate law enforcement agencies.

(dd) The LSRH shall adopt, implement and enforce policies and procedures to identify, assess, and develop strategies to control risk of injury to patients and nurses associated with the lifting, transferring, repositioning, or movement of a patient. The policies and procedures shall establish a process that includes at least the following:

(1) analysis of the risk of injury to both patients and nurses posed by the patient handling needs of the patient populations served by the LSRH and the physical environment in which patient handling and movement occurs;

(2) education of nurses in the identification, assessment, and control of risks of injury to patients and nurses during patient handling;

(3) evaluation of alternative ways to reduce risks associated with patient handling, including evaluation of equipment and the environment;

(4) restriction, to the extent feasible with existing equipment and aids, of manual patient handling or movement of all or most of a patient's weight to emergency, life-threatening, or otherwise exceptional circumstances;

(5) collaboration with and annual report to the nurse staffing committee;

(6) procedures for nurses to refuse to perform or be involved in patient handling or movement that the nurse believes in good faith will expose a patient or a nurse to an unacceptable risk of injury;

(7) submission of an annual report to the governing body on activities related to the identification, assessment, and development of strategies to control risk of injury to patients and nurses associated with the lifting, transferring, repositioning, or movement of a patient; and

(8) development of architectural plans for constructing or remodeling a LSRH or a unit of an LSRH in which patient handling and movement occurs, with consideration of the feasibility of incorporating patient handling equipment or the physical space and construction design needed to incorporate that equipment at a later date.

§511.63. *Patient's Rights.*

(a) A limited services rural hospital (LSRH) shall protect and promote each patient's rights.

(b) An LSRH shall adopt, implement, and enforce a policy to ensure patients' rights are upheld within the limits of law. The LSRH's written patient's rights policy shall include the following:

(1) the right to participate in the development and implementation of their plan of care;

(2) the right to make informed decisions regarding their care, including being informed of their health status, and being able to request or refuse treatment;

(3) the right to formulate advance directives and to have LSRH staff and practitioners who provide care in the LSRH comply with these directives, in accordance with Code of Federal Regulations Title 42 (42 CFR) §§489.100 (relating to Definitions), 489.102 (relating to Requirement for Providers), and 489.104 (relating to Effective Dates) and Texas Health and Safety Code Chapter 166 (relating to Advance Directives);

(4) the right to have personal privacy;

(5) the right to receive medical standard of care in a safe setting;

(6) the right to be free from all forms of abuse, neglect, exploitation, and harassment;

(7) the right to have confidentiality of their medical records;

(8) the right to the LSRH's reasonable response to the patient's requests and needs for treatment or service, within the LSRH's capacity, stated mission, and applicable law and regulation;

(9) the right to considerate and respectful care, which includes:

(A) the care of the patient includes consideration of the psychosocial, spiritual, and cultural variables that influence perceptions of illness; and

(B) the care of a dying patient optimizes the comfort and dignity of the patient through:

(i) treating primary and secondary symptoms that respond to treatment as desired by the patient or surrogate decision maker;

(ii) effectively managing pain; and

(iii) acknowledging the psychosocial and spiritual concerns of the patient and the family regarding dying and the expression of grief by the patient and family;

(10) the right of the patient or their legally authorized representative (LAR) to, in collaboration with the patient's physician, make decisions involving their health care, including:

(A) the right to accept medical care or to refuse treatment to the extent permitted by law and to be informed of the medical consequences of such refusal; and

(B) the right to formulate advance directives and to appoint a surrogate to make health care decisions on their behalf to the extent permitted by law;

(11) a mechanism to ascertain the existence of, and, as appropriate, assist in the development of advance directives at the time of the patient's admission;

(12) the right to not have the provision of care conditioned on the existence of an advance directive;

(13) the right of a patient to the information necessary to enable them to make treatment decisions reflecting their wishes;

(14) the right of a patient to receive at the time of admission information about the LSRH's patient rights policy or policies and the mechanism for the initiation, review, and, when possible, resolution of patient complaints concerning the quality of care;

(15) the right to receive information about the patient's rights in advance of receiving or discontinuing patient care whenever possible;

(16) the right of the patient or the patient's legally authorized representative to participate in the consideration of ethical issues that arise in the care of a patient;

(17) a mechanism for the consideration of ethical issues arising in the care of patients and to provide education to care givers and patients on ethical issues in health care;

(18) the right of the patient to be informed of and consent to any human experimentation or other research or educational projects affecting their care or treatment;

(19) the right of the patient or the patient's legally authorized representative to access the information contained in the patient's medical record, on oral or written request; and

(20) the right of the patient's guardian, next of kin, or LAR to exercise, to the extent permitted by law, the rights delineated on behalf of the patient if the patient:

(A) has been adjudicated incompetent in accordance with the law;

(B) is found by their physician to be medically incapable of understanding the proposed treatment or procedure;

(C) is unable to communicate their wishes regarding treatment; or

(D) is a minor.

(c) An LSRH must post the patient bill of rights prominently and conspicuously for display in a public area of the LSRH that is readily available to patients, residents, employees, and visitors.

(1) In addition to these patient bill of rights requirements, an LSRH that provides chemical dependency services shall comply with this section and Texas Administrative Code Title 25 (25 TAC) §448.701 (relating to Client Bill of Rights) applicable to patients who receive such services.

(2) In addition to these patient bill of rights requirements, an LSRH that provides mental health services shall comply with this section and 25 TAC Chapter 404, Subchapter E (relating to Rights of Persons Receiving Mental Health Services) applicable to patients who receive such services.

(3) The patient bill of rights posted for display shall be in English and in a second language appropriate to the demographic makeup of the community served.

(d) An LSRH's medical staff and governing body shall adopt, implement, and enforce a policy on informed decision making that is consistent with any legal requirements.

(e) An LSRH shall establish a process for prompt resolution of patient complaints and inform each patient whom to contact to file a complaint. The LSRH's governing body or responsible individual shall approve and be responsible for the effective operation of the complaint process and shall review and resolve complaints, unless it delegates the responsibility, in writing, to a complaint committee. The complaint process shall include a mechanism for timely referral of patient concerns regarding quality of care or premature discharge to the appropriate Utilization and Quality Control Quality Improvement Organization.

(1) The LSRH shall establish a clearly explained procedure for the submission of a patient's written or verbal complaint to the LSRH.

(2) The complaint process shall specify timeframes for review of the complaint and the provision of a response.

(3) In its resolution of the complaint, the LSRH shall provide the patient with written notice of its decision that contains the name of the LSRH contact person, the steps taken on behalf of the patient to investigate the complaint, the results of the complaint process, and the date of completion.

(f) Notwithstanding subsection (b) of this section, an LSRH may deny treatment or services deemed medically unnecessary or inappropriate.

§511.65. *Patient Transfer Policy.*

(a) The governing body of each limited services rural hospital (LSRH) shall adopt, implement, and enforce a policy relating to patient transfers consistent with this section and contains each of the requirements in subsection (b) of this section. The policy shall identify LSRH staff that has authority to represent the LSRH and the physician regarding transfers from the LSRH.

(b) The LSRH's governing body shall adopt the transfer policy after consultation with the medical staff. The policy shall apply to patient transfers to general and special hospitals licensed under Texas Health and Safety Code (HSC) Chapter 241 (relating to Hospitals) and private psychiatric hospitals licensed under HSC Chapter 577 (relating to Private Mental Hospitals and Other Mental Health Facilities), as well as transfers to general, special, and private psychiatric hospitals that are exempt from licensing.

(c) The LSRH's transfer policy shall govern transfers not covered by a transfer agreement.

(d) The LSRH's transfer policy shall include a written operational plan to provide for patient transfer transportation services if the LSRH does not provide its own patient transfer transportation services.

(e) The LSRH's governing body, after consultation with the medical staff, shall implement its transfer policy by adopting transfer agreements with hospitals in accordance with this section.

(f) The LSRH's transfer policy shall recognize and comply with the requirements HSC Chapter 61 §§61.030 - 61.032 and §§61.057 - 61.059 (relating to Indigent Health Care and Treatment Act).

(g) The LSRH's transfer policy shall acknowledge contractual obligations and comply with statutory or regulatory obligations that may exist concerning a patient and a designated provider.

(h) The LSRH's transfer policy shall require the LSRH to take all reasonable steps to secure the written informed consent of a patient, or a person acting on a patient's behalf, when refusing a transfer or related examination and treatment. Reasonable steps include:

(1) providing a factual explanation regarding:

(A) the increased medical risks to the patient reasonably expected from not being transferred, examined, or treated at the transferring hospital;

(B) any increased risks to the patient from not effecting the transfer; and

(C) the medical benefits reasonably expected from the provision of appropriate treatment at another hospital; and

(2) documenting the informed refusal of a patient, or of a person acting on a patient's behalf, to examination, evaluation, or transfer and obtaining, if possible, the signature of the patient or the person acting on the patient's behalf, regarding the refusal that is dated and witnessed by the attending physician or facility employee, and placed in the patient's medical record.

(i) The LSRH's transfer policy shall recognize an individual's right to request a transfer into the care of a physician and a hospital of the individual's own choosing.

(j) The LSRH's transfer policy shall prohibit a patient transfer from being predicated upon arbitrary, capricious, or unreasonable dis-

crimination based upon race, religion, national origin, age, sex, physical condition, economic status, insurance status, or ability to pay.

(k) The LSRH's transfer policy shall require, when a patient requests or consents to transfer for economic reasons and the patient's choice is based on or influenced by representations made by the transferring physician or LSRH administration regarding the availability of medical care and hospital services at a reduced cost or no cost to the patient, the physician or facility administration to fully disclose to the patient the eligibility requirements established by the patient's chosen physician or hospital.

(l) The LSRH's transfer policy shall provide that each patient who arrives at the facility is:

(1) evaluated by a physician at the time the patient presents or is presented or evaluated by a physician on-call who is:

(A) physically able to reach the patient within 30 minutes after being informed that a patient is present at the LSRH who requires immediate medical attention; or

(B) accessible by direct, telephone, or radio communication within 30 minutes with a registered nurse, physician assistant, or other qualified medical personnel as established by the governing body at the LSRH under orders to assess and report the patient's condition to the physician; and

(2) personally examined and evaluated by the physician before an attempt to transfer is made; however:

(A) after receiving a report on the patient's condition from the LSRH's registered nurse, physician assistant, or other qualified medical personnel as established by the governing body by telephone or radio, if the physician on-call determines that an immediate transfer of the patient is medically appropriate and that the time required to conduct a personal examination and evaluation of a patient will unnecessarily delay the transfer to the detriment of the patient, the physician on-call may order the transfer by telephone or radio;

(B) physician orders for the transfer of a patient which are issued by telephone or radio shall be reduced to writing in the patient's medical record, signed by the registered nurse, physician assistant, or other qualified medical personnel as established by the governing body receiving the order, and countersigned by the physician authorizing the transfer as soon as possible; and

(C) patient transfers resulting from physician orders issued by telephone or radio shall be subject to automatic review by the medical staff pursuant to subsection (q)(6) of this section.

(m) The transfer policies of the transferring LSRH and receiving general or special hospital shall require the facilities to have licensed nurses and other qualified personnel available and on duty to assist with patient transfers. The policies shall require written protocols or standing delegation orders to be in place to guide facility personnel when a patient requires transfer to another hospital.

(n) If a patient at an LSRH has an emergency medical condition that has not been stabilized, or when stabilization of the patient's vital signs is not possible because the LSRH does not have the appropriate equipment or personnel to correct the underlying process, the LSRH shall evaluate and treat the patient, then transfer the patient as quickly as possible.

(o) The LSRH's transfer policy shall prohibit the LSRH from transferring a patient with an emergency medical condition that has not been stabilized unless:

(1) the individual (or a legally responsible person acting on the individual's behalf), after being informed of the LSRH's obligations

under this section and of the risk of transfer, requests the transfer in writing, indicates the reasons for the request, and states the individual is aware of the risks and benefits of the transfer; or

(2) a physician signs a certification, which includes a summary of the risks and benefits based on the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another hospital outweigh the increased risks to the patient and, in the case of labor, to the unborn child from effecting the transfer.

(p) except as specifically provided in subsection (o) of this section, the LSRH's policy shall provide that the transfer of patients who have emergency medical conditions, as determined by a physician, shall be undertaken for medical reasons only. The LSRH must provide medical treatment within its capacity that minimizes the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child.

(q) The LSRH's transfer policy shall include the following information related to physicians' duties and standard of care. The policy shall require:

(1) the transferring physician to determine and order life support measures that are medically appropriate to stabilize the patient before transfer and to sustain the patient during transfer;

(2) the transferring physician to determine and order the utilization of appropriate personnel and equipment for the transfer;

(3) the transferring physician, in determining the use of medically appropriate life support measures, personnel, and equipment, to exercise that degree of care which a reasonable and prudent physician exercising ordinary care in the same or similar locality would use for the transfer;

(4) except as allowed under subsection (o) of this section, before each patient transfer, the physician who authorizes the transfer to personally examine and evaluate the patient to determine the patient's medical needs and to ensure that the proper transfer procedures are used;

(5) before each patient transfer, the transferring physician to ensure the receiving general or special hospital and physician are appropriate to the patient's medical needs and have accepted responsibility for the patient's medical treatment and hospital care; and

(6) the LSRH's medical staff review appropriate records of patients transferred from the LSRH to determine that the appropriate standard of care has been met.

(r) The LSRH's transfer policy shall comply with the following requirements related to medical records.

(1) The policy shall require the LSRH to forward a copy of the portions of the patient's medical record, which are available and relevant to the transfer and to the continuing care of the patient, to the receiving physician and receiving hospital with the patient. When all necessary medical records for the continued care of the patient are not available at the time the patient is transferred, the transferring LSRH shall forward the records to the receiving physician and hospital as soon as possible.

(2) The patient's medical record shall contain at least the following:

(A) a brief description of the patient's medical history and physical examination;

(B) a working diagnosis and recorded observations of physical assessment of the patient's condition at the time of transfer;

- (C) the reason for the transfer;
- (D) the results of all diagnostic tests, such as laboratory tests;
- (E) relevant radiological films and reports; and
- (F) any other relevant information.

(s) The LSRH's transfer policy shall require the LSRH to complete a memorandum of transfer for every transferred patient.

(1) The memorandum shall contain the following information:

- (A) if known, the patient's:
  - (i) full name;
  - (ii) race, religion, national origin, age, sex, disability status;
  - (iii) address and phone number; and
  - (iv) next of kin address and phone number;
- (B) the transferring and receiving physicians' names, telephone numbers, and addresses;
- (C) the transferring LSRH's and receiving general or special hospital's names, addresses, and telephone numbers;
- (D) the time and date on which the patient first presented or was presented to the transferring physician and transferring LSRH;
- (E) the time and date on which the transferring physician secured a receiving physician;
- (F) the name of the hospital contact and date and time hospital administration was contacted in the receiving general or special hospital;
- (G) the transferring LSRH administrator's signature and title and time the administrator contacted the receiving hospital;
- (H) certification required by subsection (o)(2) of this section, if applicable (the certification may be part of the memorandum of transfer form or may be on a separate form attached to the memorandum of transfer form);
- (I) the time and date the receiving physician assumed responsibility for the patient;
- (J) the time and date the patient arrived at the receiving general or special hospital;
- (K) the signature and date of receiving hospital administration;
- (L) the type of vehicle and company used to transport the patient;
- (M) the type of equipment and personnel needed in transfers;
- (N) the name and city of hospital where the patient was transported;
- (O) the patient's diagnosis by the transferring physician; and
- (P) the attachments by the transferring LSRH.

(2) The transferring LSRH shall retain a copy of the memorandum of transfer for five years and file the memorandum separately

from the patient's medical record and in a manner facilitating its inspection by the Texas Health and Human Services Commission.

(t) An LSRH violates HSC Chapter 241 and this section if:

(1) the LSRH fails to comply with the requirements of this section; or

(2) the LSRH's governing body fails or refuses to:

(A) adopt a transfer policy that complies with this section and contains all requirements listed in this section;

(B) adopt a memorandum of transfer form that complies with the content requirements contained in this section; or

(C) enforce its transfer policy and the use of the memorandum of transfer.

*§511.67. Medical Records.*

(a) A limited services rural hospital (LSRH) shall maintain a medical records system in accordance with the LSRH's written policies and procedures, which must:

(1) contain procedures for collecting, processing, maintaining, storing, retrieving, authenticating, and distributing patient medical records; and

(2) require the medical records to be:

(A) legible;

(B) completely and accurately documented, dated, and timed;

(C) authenticated by the person responsible for providing or evaluating the service provided no later than 48 hours after the patient's discharge;

(D) systematically organized according to a predetermined and uniform medical record format;

(E) confidential, secure, and safely stored; and

(F) readily accessible, including that all a patient's relevant clinical information is readily available to physicians or practitioners involved in that patient's care, and an individual's records are timely retrievable upon request.

(b) An LSRH shall designate a member of the LSRH's professional staff who is responsible for maintaining the records and for ensuring the records comply with the LSRH's written policies and procedures under subsection (a) of this section.

(c) An LSRH shall maintain a uniformly formatted and organized medical record for each patient receiving health care services at the LSRH. The record shall include the following, as applicable:

(1) complete patient identification and social data, as described in Code of Federal Regulations Title 42 §485.540(a)(4)(i) (relating to Conditions of Participation: Medical Records);

(2) date, time, and means of the patient's arrival and discharge;

(3) evidence of properly executed informed consent forms;

(4) allergies and untoward reactions to drugs recorded in a prominent and uniform location;

(5) relevant medical history;

(6) the patient's advance directive;

(7) assessment of the patient's health status and health care needs;

(8) a brief summary of the episode, any care given to the patient before the patient's arrival to the LSRH, the patient's disposition, and instructions given to the patient;

(9) a complete detailed description of treatment and procedures performed in the LSRH;

(10) clinical observations, diagnostic impression, and consultative findings, including results of:

(A) physical examinations, including vital signs;

(B) diagnostic and laboratory tests, including clinical laboratory services; and

(C) treatment provided and procedures performed;

(11) a pre-anesthesia evaluation by an individual qualified to administer anesthesia before and LSRH administers anesthesia to a patient;

(12) pathology report on all tissues removed, except those exempted by the governing body;

(13) for a patient with a length of stay greater than eight hours, an evaluation of nutritional needs and evidence of how the LSRH met the patient's identified needs;

(14) all orders of physicians or another practitioner, who is practicing within the scope of their license and education;

(15) all reports of treatments and medications, including all medications administered and the drug dose, route of administration, frequency of administration, and quantity of all drugs administered or dispensed to the patient by the facility;

(16) nursing notes and documentation of complications;

(17) other relevant information necessary to monitor the patient's progress, such as temperature graphics and progress notes describing the patient's response to treatment;

(18) evidence of the patient's evaluation by a physician, podiatrist, dentist, or another practitioner, who is practicing within the scope of their license and education, before dismissal;

(19) conclusion at the termination of evaluation and treatment, including final disposition, the patient's condition on discharge or transfer, and any instructions given to the patient or family for follow-up care;

(20) medical advice given to a patient by telephone; and

(21) dated signatures of the physician or other health care professional.

(d) Except when otherwise required or permitted by law, an LSRH shall maintain the strict confidentiality of patient record information, including any record that contains clinical, social, financial, or other data on a patient, and provide safeguards against loss, tampering, altering, improper destruction, unauthorized use, or inadvertent disclosure.

(e) An LSRH shall have written policies and procedures governing the use and removal of records from the LSRH and the conditions for the release of information. The written policies and procedures shall include all the following requirements.

(1) An LSRH shall obtain a patient's or their legally authorized representative's written consent before releasing information not required by law.

(2) An LSRH shall retain medical records until at least the 10th anniversary of the last entry date when the patient was last treated

in the LSRH except as required in subparagraphs (A) and (B) of this paragraph.

(A) If a patient was younger than 18 years of age when the LSRH last treated the patient, the LSRH shall retain the patient's medical records until on or after the date of the patient's 20th birthday or on or after the 10th anniversary of the last entry date when the LSRH last treated the patient, whichever date is later.

(B) The LSRH shall not destroy medical records that relate to any matter that is involved in litigation if the LSRH knows the litigation has not been finally resolved.

(3) If an LSRH plans to close, the LSRH shall arrange for disposition of the medical records in accordance with applicable law. The LSRH shall notify HHSC at the time of closure of the disposition of the medical records, including where the medical records will be stored and the name, address, and phone number of the custodian of the records.

(f) An LSRH shall provide written notice to a patient, or a patient's legally authorized representative as defined in Texas Health and Safety Code §241.151, that the LSRH, unless the exception in subsection (e)(2)(B) of this section applies, may authorize the disposal of medical records relating to the patient on or after the periods specified in this section.

(1) The LSRH shall provide the notice to the patient or the patient's legally authorized representative not later than the date on which the patient who is or will be the subject of a medical record is treated, except in an emergency treatment situation.

(2) In an emergency treatment situation, the LSRH shall provide the notice to the patient or the patient's legally authorized representative as soon as is reasonably practicable following the emergency treatment situation.

(g) When necessary for ensuring continuity of care, the LSRH shall transfer summaries or electronic copies of the patient's record to the physician or practitioner to whom the patient was referred and, if appropriate, to the facility where future care will be rendered.

(h) When the LSRH utilizes an electronic medical records system or other electronic administrative system, which is conformant with the content exchange standard at Code of Federal Regulations Title 45 §170.205(d)(2) (relating to Content Exchange Standards and Implementation Specifications for Exchanging Electronic Health Information), then the LSRH must demonstrate:

(1) the system's notification capacity is fully operational and the LSRH uses it in accordance with all state and federal laws and regulations applicable to the LSRH's exchange of patient health information;

(2) the system sends notifications that must include at least patient name, treating practitioner name, and sending institution name;

(3) to the extent permissible under applicable federal and state law and regulations, and not inconsistent with the patient's expressed privacy preferences, the system sends notifications directly, or through an intermediary that facilitates exchange of health information, at the time of the patient's registration in the LSRH's emergency department;

(4) to the extent permissible under applicable federal and state law and regulations, and not inconsistent with the patient's expressed privacy preferences, the system sends notifications directly, or through an intermediary that facilitates exchange of health information, either immediately prior to, or at the time the patient's discharge or transfer from the LSRH's emergency department; and

(5) the LSRH has made a reasonable effort to ensure the system sends the notifications to all applicable post-acute care services providers and suppliers, as well as to any of the following practitioners and entities, which need to receive notification of the patient's status for treatment, care coordination, or quality improvement purposes:

(A) the patient's established primary care practitioner;

(B) the patient's established primary care practice group or entity; or

(C) other practitioner, or other practice group or entity, identified by the patient as the practitioner, or practice group or entity, primarily responsible for their care.

(i) An LSRH shall provide medical records in the form and format requested by the individual or their legally authorized representative, if it is readily producible in such form and format. This includes in an electronic form or format when such medical records are maintained electronically or if not, in a readable hard copy form or such other form and format as agreed to by the LSRH and the individual.

(j) An LSRH shall provide records within a reasonable timeframe. The LSRH must not frustrate the legitimate efforts of individuals to gain access to their own medical records and must actively seek to meet these requests as quickly as its record keeping system permits.

§511.68. *Emergency Preparedness.*

(a) A limited services rural hospital (LSRH) shall develop, adopt, implement, enforce, and maintain a written emergency preparedness plan. The LSRH shall review and update the plan at least every two years. The plan shall:

(1) be based on and include a documented, facility-based and community-based risk assessment, using an all-hazards approach;

(2) include strategies for addressing emergency events identified by the risk assessment;

(3) identify the services the LSRH has the ability to provide in an emergency and include strategies for addressing and serving the patient population;

(4) include the use of a Texas Health and Human Services Commission (HHSC)-approved process to update patient station availability as requested by HHSC during a public health emergency or state-declared disaster;

(5) include continuity of operations, including delegations of authority and succession plans;

(6) include a process for cooperation and collaboration with local, tribal, regional, state, and federal emergency preparedness officials' efforts to maintain an integrated response during a disaster or emergency situation; and

(7) incorporate applicable information listed in subsection (e) of this section and the State of Texas Emergency Management Plan. Information regarding the State of Texas Emergency Management Plan is available from the city or county emergency management coordinator.

(b) An LSRH shall send the plan, which may be subject to review and approval by HHSC, to the local disaster management authority.

(c) The LSRH shall develop the plan through a joint effort of the LSRH governing body, administration, medical staff, LSRH personnel, and emergency medical services partners.

(d) An LSRH shall have an effective procedure for obtaining emergency laboratory, radiology, and pharmaceutical services when these services are not immediately available due to system failure.

(e) An LSRH shall develop and implement emergency preparedness policies and procedures, based on the emergency plan set forth in subsection (a) of this section, risk assessment at subsection (a)(1) of this section, and the communication plan at subsection (f) of this section. The LSRH shall review and update the policies and procedures at least every two years. The policies and procedures shall at least address the following:

(1) reception, treatment, and disposition of casualties that can be used if a disaster situation requires the LSRH to accept multiple patients;

(2) the process, developed in conjunction with appropriate agencies, for allowing essential health care workers and personnel to safely access their delivery care sites;

(3) providing subsistence needs throughout the duration of the response for staff, volunteers, and patients, whether they evacuate or shelter in place, including:

(A) food, water, medical and pharmaceutical supplies, personal protection equipment, and appropriate immunizations;

(B) alternate sources of power to maintain:

(i) temperatures to protect patient health and safety and for the safe and sanitary storage of provisions;

(ii) emergency lighting;

(iii) fire detection, extinguishing, and alarm systems; and

(iv) sewage and waste disposal; and

(C) a system to track the location of on-duty staff and sheltered patients in the LSRH's care during an emergency, which also requires the LSRH to document the specific name and location of the receiving facility or other location when on-duty staff or sheltered patients are relocated during the emergency;

(4) safe evacuation from the LSRH, which includes the following:

(A) activation procedures, including who makes the decision to activate and how it is activated;

(B) consideration of care and treatment needs of evacuees;

(C) staff responsibilities;

(D) plan for the order of removal of patients and planned route of movement;

(E) transportation of staff, volunteers, and patients;

(F) records and supplies transportation, including the protocol for transferring patient-specific medications and records to the receiving facility, which requires records to include at a minimum:

(i) the patient's most recent physician assessment if seen by a physician;

(ii) the most recent assessment if the patient was last assessed by a practitioner within the scope of their license and education;

(iii) the order sheet;

(iv) medication administration record (MAR); and

- (v) patient history with physical documentation;
  - (G) a weather-proof patient identification wrist band (or equivalent identification) must be intact on all patients;
  - (H) identification of any evacuation locations and destinations, including protocol to ensure the patient destination is compatible to patient acuity and health care needs; and
  - (I) primary and alternate means of communication with external sources of assistance;
- (5) a means to shelter in place for patients, staff, and volunteers who remain in the LSRH;
- (6) a system of medical documentation that does the following:
- (A) preserves patient information;
  - (B) protects confidentiality of patient information; and
  - (C) secures and maintains the availability of records;
- (7) the use of volunteers in an emergency and other staffing strategies, including the process and role for integration of state and federally designated health care professionals to address surge needs during an emergency; and
- (8) An LSRH's emergency preparedness policies and procedures shall include the LSRH's role in providing care and treatment at an alternate care site identified by federal and local emergency management officials, in the event of a declared disaster or national emergency in accordance with federal rules, regulations, and associated waivers.
- (f) An LSRH must develop and maintain an emergency preparedness communication plan that complies with federal, state, and local laws. The LSRH shall review and update the communication plan at least every two years. The communication plan shall include:
- (1) names and contact information for:
    - (A) staff;
    - (B) entities providing services under arrangement;
    - (C) patients' physicians; and
    - (D) volunteers;
  - (2) contact information for:
    - (A) federal, state, tribal, regional, and local emergency preparedness staff, including the city and county emergency management officers;
    - (B) the LSRH water supplier; and
    - (C) other sources of assistance;
  - (3) primary and alternate means for communicating with:
    - (A) LSRH staff; and
    - (B) federal, state, tribal, regional, and local emergency management agencies;
  - (4) procedures for notifying each of the following entities, as soon as practicable, regarding the closure or reduction in hours of operation of the LSRH due to an emergency:
    - (A) HHSC;
    - (B) each hospital with which the facility has a transfer agreement in accordance with §511.66 of this subchapter (relating to Patient Transfer Agreements);

- (C) the trauma service area regional advisory council that serves the geographic area in which the facility is located; and
  - (D) each applicable local emergency management agency;
  - (5) a method for sharing information and medical documentation for patients under the LSRH's care, as necessary, with other health care providers to maintain the continuity of care;
  - (6) a means, in the event of an evacuation, to notify a patient's emergency contact or contacts of an evacuation and the patient's destination and release patient information as permitted under Code of Federal Regulations Title 45 (45 CFR) §164.510(b)(1)(ii) (relating to Uses and Disclosures Requiring an Opportunity for the Individual to Agree or to Object);
  - (7) a means of providing information about the general condition and location of patients under the LSRH's care as permitted under 45 CFR §164.510(b)(4);
  - (8) a means of providing information about the LSRH's needs, and its ability to provide assistance, to the authority having jurisdiction, the Incident Command Center, or designee; and
  - (9) evidence that the LSRH has communicated prospectively with the local utility and phone companies regarding the need for the LSRH to be given priority for the restoration of utility and phone services and a process for testing internal and external communications systems regularly.
- (g) An LSRH shall post a phone number listing specific to the LSRH equipment and locale to assist staff in contacting mechanical and technical support in the event of an emergency.
- (h) An LSRH must develop and maintain an emergency preparedness training and testing program that is based on the emergency plan set forth in subsection (a) of this section, risk assessment in subsection (a)(1) of this section, policies and procedures in subsection (E) of this section, and the communication plan in subsection (f) of this section. The LSRH shall review and update the training and testing program at least every two years.
- (1) The LSRH shall:
    - (A) provide initial training in emergency preparedness policies and procedures to all new and existing staff, individuals providing on-site services under arrangement, and volunteers, consistent with their expected roles;
    - (B) provide emergency preparedness training at least every two years;
    - (C) maintain documentation of all emergency preparedness training;
    - (D) demonstrate staff knowledge of emergency procedures; and
    - (E) conduct training on the updated policies and procedures if the LSRH significantly updates the emergency preparedness policies and procedures.
  - (2) The LSRH shall conduct exercises to test the emergency plan at least annually. The LSRH shall comply with all of the following requirements.
    - (A) The LSRH shall participate in a full-scale exercise that is community-based every two years.
      - (i) When a community-based exercise is not accessible, the LSRH shall conduct an LSRH-based functional exercise every two years; or

(ii) If the LSRH experiences an actual natural or man-made emergency that requires activation of the emergency plan, the LSRH is exempt from engaging in its next required community-based or individual, facility-based functional exercise following the onset of the emergency event.

(B) The LSRH shall conduct an additional exercise at least every two years, opposite the year the LSRH conducts the full-scale or functional exercise under subparagraph (A) of this paragraph, that may include the following:

(i) a second full-scale exercise that is community-based, or an individual, facility-based functional exercise;

(ii) a mock disaster drill; or

(iii) a tabletop exercise or workshop that is led by a facilitator and includes a group discussion using a narrated, clinically relevant emergency scenario, and a set of problem statements, directed messages, or prepared questions designed to challenge an emergency plan.

(C) The LSRH shall analyze the LSRH's response to and maintain documentation of all drills, tabletop exercises, and emergency events and revise the LSRH's emergency plan, as needed.

(3) An LSRH participating in an exercise or responding to a real-life event shall develop an after-action report (AAR) within 60 days after the exercise or event. The LSRH shall retain an AAR for at least three years and be available for review by the local emergency management authority and HHSC. The LSRH shall revise the LSRH's emergency plan, as needed, in response to the AAR.

(i) An LSRH must implement emergency and standby power systems based on the emergency plan set forth in subsection (a) of this section.

(1) The generator shall be located in accordance with the location requirements found in the Health Care Facilities Code (National Fire Protection Association (NFPA) 99 and Tentative Interim Amendments (TIA) 12-2, TIA 12-3, TIA 12-4, TIA 12-5, and TIA 12-6), Life Safety Code (NFPA 101 and Tentative Interim Amendments TIA 12-1, TIA 12-2, TIA 12-3, and TIA 12-4), and NFPA 110, when a new structure is built or when an existing structure or building is renovated.

(2) The LSRH shall implement emergency power system inspection and testing requirements found in the Health Care Facilities Code, NFPA 110, and the Life Safety Code.

(3) An LSRH that maintains an onsite fuel source to power emergency generators must have a plan for how it will keep emergency power systems operational during the emergency unless it evacuates.

(j) When an LSRH is part of a health care system consisting of multiple separately certified health care facilities that elects to have a unified and integrated emergency preparedness program, the LSRH may choose to participate in the health care system's coordinated emergency preparedness program. If elected, the unified and integrated emergency preparedness program shall:

(1) demonstrate that each separately certified facility within the system actively participated in the development of the unified and integrated emergency preparedness program;

(2) be developed and maintained in a manner that takes into account each separately certified facility's unique circumstances, patient populations, and services offered;

(3) demonstrate that each separately certified facility is capable of actively using the unified and integrated emergency preparedness program and is in compliance;

(4) include a unified and integrated emergency plan that meets the requirements of this section and include the following:

(A) a documented community-based risk assessment, utilizing an all-hazards approach; and

(B) a documented individual facility-based risk assessment for each separately certified facility within the health system, utilizing an all-hazards approach; and

(5) include integrated policies and procedures that meet the requirements set forth in subsection (e) of this section, and a coordinated communication plan and training and testing programs that meet the requirements of subsections (f) and (h) of this section, respectively.

(k) The following material listed in this subsection is incorporated by reference into this section.

(1) NFPA 99, Health Care Facilities Code, 2012 edition, issued August 11, 2011.

(2) TIA 12-2 to NFPA 99, issued August 11, 2011.

(3) TIA 12-3 to NFPA 99, issued August 9, 2012.

(4) TIA 12-4 to NFPA 99, issued March 7, 2013.

(5) TIA 12-5 to NFPA 99, issued August 1, 2013.

(6) TIA 12-6 to NFPA 99, issued March 3, 2014.

(7) NFPA 101, Life Safety Code, 2012 edition, issued August 11, 2011.

(8) TIA 12-1 to NFPA 101, issued August 11, 2011.

(9) TIA 12-2 to NFPA 101, issued October 30, 2012.

(10) TIA 12-3 to NFPA 101, issued October 22, 2013.

(11) TIA 12-4 to NFPA 101, issued October 22, 2013.

(12) NFPA 110, Standard for Emergency and Standby Power Systems, 2010 edition, including TIAs to chapter 7, issued August 6, 2009.

§511.76. *Patient Visitation.*

(a) A limited services rural hospital (LSRH) shall adopt, implement, and enforce written policies and procedures regarding patient visitation rights, including those setting forth any clinically necessary or reasonable restriction or limitation that the LSRH may need to place on such rights and the reasons for the clinical restriction or limitation.

(b) An LSRH shall:

(1) inform each patient (or support person, where appropriate) of their visitation rights, including any clinical restriction or limitation on such rights, when they are informed of their other rights under §511.63 of this subchapter (relating to Patient's Rights);

(2) inform each patient of the LSRH's visitation policy;

(3) inform each patient (or support person, where appropriate) of the right, subject to their consent, to receive the visitors whom they designate, including a spouse, a domestic partner (including a same-sex domestic partner), another family member, or a friend, and their right to withdraw or deny such consent at any time;

(4) not restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, gender identity, sexual orientation, or disability;

(5) ensure all visitors enjoy full and equal visitation privileges consistent with patient preferences; and

(6) record any clinically justified visitation restrictions in the patient's medical record.

(c) In accordance with Texas Health and Safety Code (HSC) §260C.002 (relating to In-Person Visitation with Religious Counselor), except as provided by subsections (d) and (e) of this section, an LSRH may not prohibit a patient from receiving in-person visitation with a religious counselor during a public health emergency upon the request of the patient or, if the patient is incapacitated, upon the request of the patient's legally authorized representative, including a family member of the patient.

(d) An LSRH may prohibit in-person visitation with a religious counselor during a public health emergency if federal law or a federal agency requires the LSRH to prohibit in-person visitation during that period.

(e) To the extent that an LSRH establishes policies and procedures for in-person religious counselor visitation during a public health emergency, these policies and procedures shall comply with the following.

(1) The policies and procedures shall establish minimum health and safety requirements for in-person visitation with religious counselors consistent with:

(A) state, local, and federal directives and guidance regarding the public health emergency;

(B) public health emergency and disaster preparedness plans; and

(C) other policies adopted by the LSRH, including the LSRH's general visitation policy and infection control policy.

(2) The policies and procedures shall address considerations for patients who are receiving end-of-life care.

(3) The policies and procedures may contain reasonable time, place, and manner restrictions on in-person visitation with religious counselors to mitigate the spread of a communicable disease or address a patient's medical condition.

(4) The policies and procedures may condition in-person visitation with religious counselors on the counselor's compliance with guidelines, policies, and procedures established under this subsection.

(f) In accordance with HSC §241.012 (relating to In-Person Hospital Visitation During Period of Disaster), an LSRH may not, during a qualifying period of disaster prohibit in-person visitation with a patient receiving care or treatment at the LSRH unless federal law or a federal agency requires the LSRH to prohibit in-person visitation during that period.

(g) Notwithstanding subsection (f) of this section, an LSRH may, during a qualifying period of disaster:

(1) restrict the number of visitors a patient receiving care or treatment at the LSRH may receive to not fewer than one, except for religious counselors visiting under subsection (b) of this section;

(2) require a visitor, including a religious counselor visiting under subsection (c) of this section, to:

(A) complete a health screening before entering the LSRH; and

(B) wear personal protective equipment at all times while visiting a patient at the LSRH; and

(3) deny entry to or remove from the LSRH's premises a visitor, including a religious counselor visiting under subsection (c) of this section, who fails or refuses to:

(A) submit to or meet the requirements of a health screening administered by the LSRH; or

(B) wear personal protective equipment that meets the LSRH's infection control and safety requirements in the manner prescribed by the LSRH.

(h) A health screening administered by an LSRH under this section and during a qualifying period of disaster must be conducted in a manner that, at a minimum, complies with:

(1) LSRH policy; and

(2) if applicable, guidance or directives issued by the Texas Health and Human Services Commission, the Centers for Medicare & Medicaid Services, or another agency with regulatory authority over the LSRH.

(i) This section does not require an LSRH to:

(1) provide a specific type of personal protective equipment to a visitor, including a religious counselor visiting under subsection (c) of this section; or

(2) except for a religious counselor visiting under subsection (c) of this section, allow in-person visitation with a patient receiving care or treatment at the LSRH if an attending physician determines and documents in the patient's medical record that in-person visitation with that patient may lead to the transmission of an infectious agent that poses a serious community health risk during a qualifying period of disaster.

(j) A determination made by an attending physician under subsection (h) of this section is valid for not more than five days after the date the determination is made unless renewed by an attending physician.

(k) When a visitor to an LSRH is denied in-person visitation with a patient receiving care or treatment at a LSRH because of a determination made by an attending physician under subsection (i)(2) of this section, the LSRH shall:

(1) provide each day a written or oral update of the patient's condition to the visitor if the visitor:

(A) is authorized by the patient to receive relevant health information regarding the patient;

(B) has authority to receive the patient's health information under an advance directive or medical power of attorney; or

(C) is otherwise the patient's surrogate decision-maker regarding the patient's health care needs under LSRH policy and other applicable law; and

(2) notify the person who receives the daily update required under paragraph (1) of this subsection of the estimated date and time at which the patient will be discharged from the LSRH.

§511.78. *Restraint and Seclusion.*

(a) All patients have the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. Restraint or seclusion may only be imposed to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time.

(b) A limited services rural hospital (LSRH) may only use restraint or seclusion when less restrictive interventions have been deter-

mined to be ineffective to protect the patient, a staff member, or others from harm.

(c) The type or technique of restraint or seclusion used must be the least restrictive intervention that will be effective to protect the patient, a staff member, or others from harm.

(d) The LSRH shall have written policies and procedures regarding the use of restraint and seclusion that are consistent with current standards of practice.

(e) An LSRH may only seclude a patient for the management of violent or self-destructive behavior.

(f) The patient has the right to safe implementation of restraint or seclusion by trained staff.

(1) The LSRH shall provide patient-centered competency-based training and education on the use of restraint and seclusion to LSRH personnel and staff, including medical staff and, as applicable, personnel providing contracted services in the LSRH.

(2) The training must include de-escalation techniques and other alternatives to the use of restraint or seclusion.

(g) An LSRH shall comply with the restraint and seclusion documentation and reporting requirements under Code of Federal Regulations Title 42 §485.534(g).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## SUBCHAPTER D. INSPECTIONS AND INVESTIGATIONS

### 26 TAC §§511.111 - 511.116

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §241.302(b), which provides that the Executive Commissioner of HHSC shall adopt rules to implement that section and establish minimum standards for LSRHs.

§511.111. *Integrity of Inspections and Investigations.*

(a) In order to preserve the integrity of the Texas Health and Human Services Commission's (HHSC's) inspection and investigation process, a limited services rural hospital (LSRH):

(1) shall not record, listen to, or eavesdrop on any HHSC interview with LSRH staff or patients that the LSRH staff knows HHSC intends to keep confidential as evidenced by HHSC taking reasonable measures to prevent from being overheard; or

(2) shall not record, listen to, or eavesdrop on any HHSC internal discussions outside the presence of LSRH staff when HHSC has requested a private room or office or distanced themselves from LSRH staff and the LSRH obtains HHSC written approval before beginning to record or listen to the discussion.

(b) An LSRH shall inform HHSC when security cameras or other existing recording devices in the LSRH are in operation during any internal discussion by or among HHSC staff.

(c) When HHSC permits facility staff by words or actions to be present, an interview or conversation for which facility staff are present does not constitute a violation of this rule.

(d) This section does not prohibit an individual from recording an HHSC interview with the individual.

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## SUBCHAPTER E. ENFORCEMENT

### 26 TAC §511.121

#### STATUTORY AUTHORITY

The new section is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §241.302(b), which provides that the Executive Commissioner of HHSC shall adopt rules to implement that section and establish minimum standards for LSRHs.

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## SUBCHAPTER F. FIRE PREVENTION AND SAFETY

## 26 TAC §§511.141 - 511.143

### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §241.302(b), which provides that the Executive Commissioner of HHSC shall adopt rules to implement that section and establish minimum standards for LSRHs.

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## SUBCHAPTER G. PHYSICAL PLANT AND CONSTRUCTION REQUIREMENTS

### 26 TAC §§511.161 - 511.169

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §241.302(b), which provides that the Executive Commissioner of HHSC shall adopt rules to implement that section and establish minimum standards for LSRHs.

§511.163. *Spatial Requirements.*

(a) Administration and public suite.

(1) Architectural requirements. The following rooms or areas shall be provided.

(A) Primary entrance. An entrance at grade level shall be accessible and protected from inclement weather with a drive under canopy for loading and unloading passengers.

(B) Lobby. A main lobby shall be located at the primary entrance and shall include a reception and information counter or desk, waiting space, public toilet facilities, public telephones, drinking fountain, and storage room or alcove for wheelchairs.

(C) Admissions area. An admissions area shall include a waiting area, work counters or desk, private interview spaces, and storage room or alcove for wheelchairs. The waiting area and wheelchair storage may be shared with similar areas located in the main lobby.

(D) General or individual offices. Office space shall be provided for business transactions, medical and financial records, and administrative and professional staffs.

(E) Multipurpose rooms. A multipurpose room or rooms shall be provided for conferences, meetings, and health education purposes including provisions for showing visual aids.

(F) Storage. Storage for office equipment and supplies shall be provided. The construction protection for the storage room or area shall be in accordance with National Fire Protection Association 101, Life Safety Code, 2012 edition (NFPA 101) §18.3.2.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter (relating to General Construction Requirements).

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter.

(b) Cart cleaning and sanitizing unit.

(1) Architectural requirements.

(A) Facilities. Cart cleaning, sanitizing, and storage facilities shall be provided for carts serving central services, dietary services, and linen services.

(B) Location. Cart facilities may be provided for each service or be centrally located.

(C) Hand washing fixtures. Hand washing fixtures shall be provided in cart cleaning, sanitizing, and storage areas.

(2) Details and finishes. When interior cart cleaning facilities are provided, details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph.

(A) Flooring. Flooring in the cart cleaning and sanitizing unit shall be of the seamless type, or ceramic or quarry tile as required by §511.162(d)(2)(B)(iii)(III) or (IV) of this subchapter.

(B) Ceilings. Ceilings in the cart cleaning and sanitizing unit shall be the monolithic type as required by §511.162(d)(2)(B)(vi)(III) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter and this paragraph.

(A) Hand washing fixtures. Hand washing fixtures shall be provided with hot and cold water. Hot and cold water fixtures shall be provided in cart cleaning and sanitizing locations regardless of whether they are interior or exterior.

(B) Floor drains and floor sinks. Where floor drains or floor sinks are installed, they shall be of a type that can be easily cleaned by removal of the cover. Removable stainless steel mesh shall be provided in addition to a gridded drain cover to prevent entry of large particles of waste that might cause stoppages. Floor drains and floor sinks shall be located to avoid conditions where removal of covers for cleaning is difficult.

(5) Electrical requirements. Electrical requirements shall be in accordance with §511.162(d)(5) of this subchapter.

(c) Central sterile supply suite.

(1) Architectural requirements.

(A) General. When surgical services are provided, the following rooms or areas shall be provided.

(i) Decontamination room. This room shall be physically separated from all other areas of the suite. The room shall include work counters or tables, flush type utility sink, equipment for initial disinfection, and hand washing facilities with hands-free operable controls. Materials shall be transferred from the decontamination room to the clean assembly room by way of pass-through doors, windows, or washer equipment. The dirty side of the decontamination room may be combined with a soiled utility room if all functions for each space are provided within the room.

(ii) Clean and assembly room. The room shall include counters or tables, equipment for sterilizing, and hand washing facilities with hands-free operable controls. Clean and soiled work areas shall be physically separated.

(iii) Breakdown storage room. A storage room for breakdown of supplies shall be provided. The storage room shall have adequate areas and counters for breakdown of prepackaged supplies.

(iv) Sterile and clean supply room. A sterile and clean supply room shall be provided. Storage of sterile and clean supplies shall not occur within the breakdown room.

(v) Equipment storage. An equipment storage room shall be provided.

(vi) Cart storage room. The storage room for distribution carts shall be adjacent to clean and sterile storage and close to main distribution points.

(vii) Multipurpose room. The equipment storage and cart storage room may be combined into a multipurpose room.

(B) Service areas. The central supply suite shall provide the following service areas.

(i) Office space. Office space for director of central services.

(ii) Staff toilets. Facilities may be outside the unit but must be convenient for staff use and shall contain hand washing fixtures with hands-free operable controls.

(iii) Locker room. When provided, the locker room for staff shall include lockers, toilets, lavatories, showers, and male and female dressing rooms or cubicles. A central changing locker room may be shared and made available within the immediate area of the central sterile supply suite.

(iv) Housekeeping room. A housekeeping room shall be provided and contain a floor receptor or service sink and storage space for housekeeping supplies and equipment. The housekeeping room shall be located on the decontamination or soiled side of the central sterile supply suite.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph.

(A) Details. Mirrors shall not be installed at hand washing fixtures in clean and sterile supply areas.

(B) Finishes.

(i) Flooring. Flooring used in the decontamination room and the clean assembly room shall be of the seamless type as required by §511.162(d)(2)(B)(iii)(III) of this subchapter.

(ii) Ceilings. Ceilings in the decontamination room, clean assembly room, and supply storage room shall be the monolithic type as required by §511.162(d)(2)(B)(vi)(III) of this subchapter.

(3) Mechanical Requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) Ventilation, humidity, and temperature control. The sterile supply room and the clean and assembly room shall include provisions for ventilation, humidity, and temperature control.

(B) Ethylene oxide (EO) sterilizers. When provided, installations of EO sterilizers shall comply with the requirements of 30 TAC §106.417 (relating to Ethylene Oxide Sterilizers) administered by the Texas Commission on Environmental Quality (TCEQ), and the following requirements.

(i) EO sterilizer requirements. All source areas shall be exhausted, including the sterilizer equipment room, service and aeration areas, over sterilizer door, and the aerator. If the EO cylinders are not located in a well-ventilated unoccupied equipment space, an exhaust hood shall be provided over the cylinders. The relief valve shall be terminated in a well-ventilated, unoccupied equipment space, or outside the building.

(ii) Airflow. General airflow shall be away from sterilizer operators and towards the sterilizers.

(iii) Exhaust. A dedicated exhaust fan and an exhaust duct system shall be provided for EO sterilizers. The exhaust outlet to the atmosphere shall be located on the highest roof, directed upward, and not less than 25 feet from any air intake. A legible warning sign shall be provided to identify the exhaust stack on the roof.

(iv) Alarm. An audible and visual alarm located in sterilizer work area and a 24-hour staffed location shall be activated upon loss of airflow in the exhaust system.

(C) Filtration. Filtration requirements for air handling units serving the central sterile supply suite shall be equipped with filters having efficiencies equal to, or greater than specified in Table 4 of §511.169(d) of this subchapter (relating to Tables).

(D) Ducts. Duct linings exposed to air movement shall not be used in ducts serving the central sterile supply suite unless terminal filters of at least 90 percent efficiency are installed downstream of linings. This requirement shall not apply to mixing boxes and acoustic traps that have special coverings over such lining.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter. When medical gas systems are provided, the systems shall comply with §511.162(d)(4) of this subchapter and this paragraph.

(A) Drainage and waste piping. Drainage and waste piping shall not be installed within the ceiling or installed in an exposed location in sterile areas unless precautions are taken to protect the space below from leakage and condensation from necessary overhead piping. Any required secondary protection shall be labeled, "code required secondary drain system" every 20 feet in a highly visible print or label.

(B) Plumbing lines. No plumbing lines may be exposed or on walls where possible leaks would create a potential of contamination of the sterile areas.

(C) Compressed air requirements. The compressed air required for the decontamination room shall not be connected to the medical air piping distribution system such as supporting breathable air for respiratory assistance needs, anesthesia machines, intermittent positive pressure breathing machine (IPPB), etc. A separate compressed

air supply source shall be provided for maintenance and equipment needs for facility support use.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph. An electrical circuit or circuits to equipment in wet areas shall be provided with ground fault circuit interrupters (GFCIs).

(d) Dietary suite.

(1) Architectural requirements.

(A) General. Construction, equipment, and installation shall comply with all applicable local and state requirements for food safety and handling and food service.

(B) Food service facilities. Food services shall be provided by an on-site food preparation system or an off-site food service system or a combination of the two. The following minimum functional elements shall be provided on site regardless of the type of dietary services.

(i) Dining area. Provide dining space for ambulatory patients, staff, and visitors. These spaces shall be separate from the food preparation and distribution areas.

(ii) Receiving area. This receiving area shall have direct access to the outside for incoming dietary supplies or off-site food preparation service and shall be separate from the general receiving area. The receiving area shall contain a control station and an area for breakout for loading, unloading, uncrating, and weighing supplies. The entrance area to the receiving area shall be covered from the weather.

(iii) Storage spaces. Storage spaces shall be convenient to receiving area and food preparation area and shall be located to exclude traffic through the food preparation area. Regardless of the type of food services provided, the facility shall provide storage of food for emergency use for a minimum of four calendar days.

(I) Storage space. Storage space shall be provided for bulk, refrigerated, and frozen foods.

(II) Cleaning supply storage. This room or closet shall be used to store nonfood items that might contaminate edibles. This storage area may be combined with the housekeeping room.

(iv) Food preparation area. Counter space shall be provided for food preparation work, equipment, and an area to assemble trays for distribution for patient meals.

(v) Ice-making equipment. Ice-making equipment shall be provided for both drinks and food products (self-dispensing equipment) and for general use (storage-bin type equipment).

(vi) Hand washing. Hand washing fixtures with hands-free operable controls shall be conveniently located at all food preparation areas and serving areas.

(vii) Food service carts. When a cart distribution system is provided, space shall be provided for storage, loading, distribution, receiving, and sanitizing of the food service carts. The cart traffic shall be designed to eliminate any danger of cross-circulation between outgoing food carts and incoming soiled carts, and the cleaning and sanitizing process. Cart circulation shall not be through food processing areas.

(viii) Ware washing room. A ware washing room equipped with commercial type dishwasher equipment shall be located separate from the food preparation and serving areas. Space shall be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using areas. Hand washing

facilities with hands-free operable controls shall be located within the soiled dish wash area. A physical separation to prevent cross-traffic between "dirty side" and "clean side" of the dish wash areas shall be provided.

(ix) Pot washing facilities. A three compartmented sink of adequate size for intended use shall be provided convenient to the food preparation area. Supplemental heat for hot water to clean pots and pans shall be by booster heater or by steam jet.

(x) Waste storage room. A food waste storage room shall be conveniently located to the food preparation and ware washing areas but not within the food preparation area. It shall have direct access to the LSRH's waste collection and disposal facilities.

(xi) Sanitizing facilities. Storage areas and sanitizing facilities for garbage or refuse cans, carts, and mobile tray conveyors shall be provided. All containers for trash storage shall have tight-fitting lids.

(xii) Housekeeping room. A housekeeping room shall be provided for the exclusive use of the dietary department. Where hot water or steam is used for general cleaning, additional space within the room shall be provided for the storage of hoses and nozzles.

(xiii) Office spaces. An office shall be provided for the use of the food service manager or the dietary service manager. In smaller LSRHs, a designated alcove may be located in an area that is part of the food preparation area.

(xiv) Toilets and locker spaces. A toilet room with at least one hand washing fixture with hands-free operable controls shall be provided for the exclusive use of the dietary staff. A toilet room shall not open directly into the food preparation areas, but must be in close proximity to them. For larger LSRHs, a locker room or space for lockers shall be provided for staff belongings.

(C) Additional service areas, rooms, and facilities. When an on-site food preparation system is used, in addition to the items required in subparagraph (B) of this paragraph, the following service areas, rooms and facilities shall be provided.

(i) Food preparation facilities. When food preparation systems are provided, there shall be space and equipment for preparing, cooking, and baking.

(ii) Tray assembly line. A patient tray assembly and distribution area shall be located within close proximity to the food preparation and distribution areas.

(iii) Food storage. When food is prepared on site, the storage room shall be adequate to accommodate food for a seven calendar day menu cycle.

(iv) Additional storage rooms. An additional room or rooms shall be provided for the storage of cooking wares, extra trays, flatware, plastic and paper products, and portable equipment.

(v) Drying storage area. Provisions shall be made for drying and storage of pots and pans from the pot washing room.

(D) Equipment. Equipment for use in the dietary suite shall meet the following requirements.

(i) Mechanical devices. Mechanical devices shall be heavy duty, suitable for the use intended, and easily cleaned. Where equipment is movable, provide heavy duty locking casters. Equipment with fixed utility connections shall not be equipped with casters.

(ii) Panels. Floor, wall, and top panels of walk-in coolers, refrigerators, and freezers shall be insulated. Coolers and refrigerators shall be capable of maintaining a temperature down to freez-

ing. Freezers shall be capable of maintaining a temperature of 20 degrees below 0 degrees Fahrenheit. Coolers, refrigerators, and freezers shall be thermostatically controlled to maintain desired temperature settings in increments of two degrees or less. Interior temperatures shall be indicated digitally and visible from the exterior. Controls shall include audible and visible high and low-temperature alarm. The time of alarm shall be automatically recorded.

(iii) Walk-in units. Walk-in units may be lockable from the outside but must have a release mechanism for exit from inside at all times. The interior shall be lighted. All shelving shall be corrosion-resistant, easily cleaned, and constructed and anchored to support a load of at least 100 pounds per linear foot.

(iv) Cooking equipment. All cooking equipment shall be equipped with automatic shutoff devices to prevent excessive heat buildup.

(E) Vending services. When vending machines are provided, a dedicated room or an alcove shall be located so that access is available at all times.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph.

(A) Details.

(i) Food storage. Food storage shelves shall not be less than four inches above the finished floor and the space below the bottom shelf shall be closed in and sealed tight for ease of cleaning.

(ii) Windows. Operable windows and doors not equipped with automatic closing devices shall be equipped with insect screens.

(iii) Food processing areas. Food processing areas in the central dietary kitchen shall have ceiling heights not less than nine feet. Ceiling-mounted equipment shall be supported from rigid structures located above the finished ceiling.

(iv) Mirrors. Mirrors shall not be installed at hand washing fixtures in the food preparation areas.

(B) Finishes.

(i) Flooring. Floors in areas used for food preparation, food assembly, soiled and clean ware cleaning shall be water-resistant and grease-proof. Floor surfaces, including tile joints, shall be resistant to food acids.

(ii) Wall bases. Wall bases in food preparation, food assembly, soiled and clean ware cleaning, and other areas that are frequently subject to wet cleaning methods shall be made integral and coved with the floor, tightly sealed to the wall, constructed without voids that can harbor insects, retain dirt particles, and be impervious to water.

(iii) Wall construction, finishes, and trim. In the dietary and food preparation areas, the wall construction, finishes, and trim, including the joints between the walls and the floors, shall be free of voids, cracks, and crevices.

(iv) Food preparation and food assembly area ceiling. The ceiling in food preparation and food assembly areas shall be washable as required by §511.162(d)(2)(B)(vi)(II) of this subchapter.

(v) Soiled and clean ware cleaning area ceiling. The ceiling in the soiled and clean ware cleaning area shall be of the monolithic type as required by §511.162(d)(2)(B)(vi)(III) of this subchapter.

(3) Mechanical Requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) Exhaust hood requirements. Exhaust hoods handling grease-laden vapors in food preparation centers shall comply with National Fire Protection Association 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2011 edition. All hoods over cooking ranges shall be equipped with grease filters, fire extinguishing systems, and heat-actuated fan controls. Clean out openings shall be provided every 20 feet and at any changes in direction in the horizontal exhaust duct systems serving these hoods. (Horizontal runs of ducts serving range hoods should be kept to a minimum.)

(B) Air change standards. When air change standards in Table 3 of §511.169(c) of this subchapter do not provide sufficient air for proper operation of exhaust hoods (when in use), supplementary filtered make-up air shall be provided in these rooms to maintain the required airflow direction and exhaust velocity. Make-up systems for hoods shall be arranged to minimize "short circuiting" of air and to avoid reduction in air velocity at the point of contaminant capture.

(C) Air handling units. Air handling units serving the dietary suite shall be equipped with filters having efficiencies equal to, or greater than specified in Table 4 of §511.169(d) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall be in accordance with §511.162(d)(4) of this subchapter and this paragraph.

(A) Grease trap location. The kitchen grease traps shall be located and arranged to permit easy access without the need to enter food preparation or storage areas. Grease traps shall be of capacity required and shall be accessible from outside of the building without need to interrupt any services.

(B) Grease traps or grease interceptors. Grease traps or grease interceptors shall be located outside the food preparation area and shall comply with the requirements in the National Association of Plumbing-Heating-Cooling Contractors (PHCC), National Standard Plumbing Code, 2000 edition.

(C) Plumbing fixtures. The material used for plumbing fixtures shall be nonabsorptive and acid-resistant.

(D) Water spouts. Water spouts used at lavatories and sinks shall have clearances adequate to avoid contaminating utensils and containers.

(E) Food handler hand washing fixtures. Hand washing fixtures used by food handlers shall be trimmed with valves that can be operated without hands. Single lever or wrist blade devices may be used. Blade handles used for this purpose shall not be less than four inches in length.

(F) Drainage and waste piping. Drainage and waste piping shall not be installed within the ceiling or installed in an exposed location in food preparation centers, food serving facilities and food storage areas unless precautions are taken to protect the space below from leakage and condensation from necessary overhead piping. Any required secondary protection shall be labeled, "code required secondary drain system" every 20 feet in a highly visible print or label.

(G) Plumbing lines. No plumbing lines may be exposed overhead or on walls where possible leaks would create a potential for food contamination.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph.

(A) Exhaust hoods. Exhaust hoods shall have an indicator light indicating that the exhaust fan is in operation.

(B) Electrical circuits. The electrical circuit or circuits to equipment in wet areas shall be provided with five milliamperere GFCI.

(e) Emergency suite. This subsection applies to all LSRHs included under the LSRH license.

(1) Architectural requirements.

(A) Emergency treatment area.

(i) Emergency treatment room. An LSRH shall provide at least one emergency treatment room and facilities to handle emergencies. The room and facilities shall meet the following requirements.

(I) Single patient room area requirements. The emergency treatment room for a single patient shall have a minimum clear floor area of 120 square feet exclusive of fixed and movable cabinets and shelves. The minimum clear room dimension exclusive of fixed cabinets and built-in shelves shall be 10 feet. The emergency treatment room shall contain cabinets, medication storage, work counter, examination light, and a hand washing fixture with hands-free operable controls.

(II) Multiple-patient room area requirements. When a multiple-patient station emergency treatment room is provided, the clearance between the side of a gurney and a wall or partition shall be a minimum of four feet. The clearance between the sides of gurneys shall be a minimum of six feet. The minimum distance at the foot of the gurney shall not be less than seven feet for single load area or room or ten feet for double load area or room. Four feet of the passage space at the foot of the gurney may be shared between two gurneys. The multiple-patient station emergency treatment room shall contain cabinets, medication storage, work counter, examination light, and a hand washing fixture with hands-free operable controls. The fixed and movable cabinets and shelves shall not encroach upon the gurney clear floor space or area.

(III) Hand washing fixtures. One hand washing fixture with hands-free operable controls shall be provided for each gurney location. One hand washing fixture may serve two gurneys if distributed appropriately between the two.

(IV) Storage space. Storage space shall be provided within the room or suite and be under staff control for general medical-surgical emergency supplies and medications. Adequate space shall be provided for emergency equipment such as emergency treatment trays, ventilator, defibrillator, splints, cardiac monitor, etc.

(V) Medication preparation storage. Locked storage space shall be provided for drugs and an area for preparation of medication with a work counter, refrigerator, and hand washing fixture with hands-free operable controls.

(VI) Stretcher and wheelchair storage. An alcove shall be provided for stretcher and wheelchair storage. The storage shall be located out of the line of traffic.

(VII) Patient toilet room. At least one patient toilet room shall be provided and shall be convenient to treatment rooms, examination rooms, and holding rooms, and a hand washing fixture with hands-free operable controls.

(VIII) Emergency entry signage. An emergency sign shall be provided at the entry from the public roads or streets serving the site. The emergency sign at the entry to the site shall be illuminated and connected to the emergency essential electrical system. Additional signs on-site may be required to direct patients to the emergency treatment area entrance when the emergency treatment area is

not visible from the site entry. The letters on the entry sign shall be red with a contrasting background, all capitalized, at least eight inches in height, and an arrow indicating direction.

(IX) Entrances. Separate ambulance and pedestrian entrances at grade level shall be well-illuminated, identified by signs, and protected from inclement weather. The ambulance entry shall have a drive under canopy for protection from inclement weather. The emergency access to permit discharge of patients from automobile and ambulances shall be paved. Parking shall be provided near and convenient to the pedestrian entrance.

(X) Control station. A registration, reception, discharge or control station shall be located to permit staff observation and control of access to treatment rooms, pedestrian and ambulance entrances, and public waiting areas. When a dedicated triage space is provided, it shall include a counter with a hand washing fixture with hands-free operable controls.

(XI) Public waiting room. A public waiting room shall be provided.

(XII) Public facilities. Toilet facilities, public telephone, and drinking fountain shall be provided for the exclusive use of the waiting room.

(XIII) Diagnostic radiographic (X-ray) room. Imaging facilities for diagnostic services shall be readily available to the emergency suite. If a separate radiographic (X-ray) room is installed within the emergency suite, it shall comply with the requirements in subsection (j)(1)(A) of this section. When the diagnostic X-ray room is exclusively used for the emergency treatment area, the dressing rooms may be omitted.

(XIV) Laboratory unit. Laboratory services shall be made available to the emergency suite. If a separate laboratory workroom is installed within the emergency suite, it shall comply with the requirements in subsection (k)(1)(C)(i) of this section. All laboratory services provided on site or by contractual arrangement shall comply with §511.45 of this chapter (relating to Laboratory Services).

(XV) Medical staff work area and charting areas. A medical staff work area and charting area shall be provided. The area may be combined with the reception and control area.

(XVI) Clean storage room. A clean storage room shall be provided for clean supplies, linens, and medications as needed. A hand washing fixture shall be provided with hands-free operable controls.

(XVII) Soiled workroom. The workroom shall contain a work counter, a clinical sink or equivalent flushing type fixture, hand washing fixture with hands-free operable controls, waste receptacles, and soiled linen receptacles.

(XVIII) Housekeeping room. The housekeeping room shall contain a floor receptor or service sink, storage space for housekeeping supplies and equipment, and be located within the suite. When automatic film processors are used, a receptacle of adequate size with hot and cold water for cleaning the processor racks shall be provided.

(XIX) Staff toilets. Toilets may be outside the suite but shall be convenient for staff use and include hand washing fixtures with hands-free operable controls. When a department has four or more treatment or examination rooms, toilet facilities shall be in the suite.

(ii) Other rooms. If an LSRH provides one or more of the following rooms, the room shall meet the applicable requirements in this clause.

(I) Examination room. When provided, the examination room for a single patient shall have a minimum clear floor area of 100 square feet exclusive of fixed and movable cabinets and shelves. The minimum clear room dimension exclusive of fixed cabinets and built-in shelves shall be nine feet. The examination room shall contain cabinets, medication storage, work counter, examination light, and a hand washing fixture with hands-free operable controls.

(II) Multi-bed examination room. When a multiple-patient station examination room is provided, the clearance between the side of the gurney and a wall or partition shall be a minimum of three feet. The clearance between sides of the gurneys shall be a minimum of six feet. The minimum distance at the foot of the gurney shall not be less than seven feet for single load area or room or ten feet for double load area or room. Four feet of the passage space at the foot of the bed may be shared between two gurneys. The multiple-patient station examination room shall contain cabinets, work counters, and a hand washing fixture with hands-free operable controls. One hand washing fixture shall be provided for every four gurneys or fraction thereof. Fixtures shall be uniformly distributed. The fixed and moveable cabinets and shelves shall not encroach upon the gurney clear floor space or area.

(III) Isolation room. The need for an airborne infection isolation room in the emergency suite shall be determined by the LSRH and the infection risk assessment. When an LSRH provides treatment rooms to perform procedures on persons who are known or suspected of having an airborne infectious disease, these procedures shall be performed in a designated treatment room meeting airborne infection isolation ventilation requirements. The isolation room shall have functional space in accordance with clause (i)(I) of this subparagraph, and meet the ventilation requirements contained in Table 3 of §511.169(c) of this subchapter.

(IV) Secured holding room. When provided, this room shall be constructed to allow for security, patient and staff safety, patient observation, and sound mitigation. The secure holding room shall have a minimum clear floor area of 100 square feet exclusive of fixed cabinets. The minimum clear room dimension exclusive of fixed cabinets shall be 10 feet.

(V) Orthopedic and cast room. When provided, the room may be in a separate room or in the trauma room. The room shall contain a work counter, storage for splints and orthopedic supplies, traction hooks, medication storage, examination light, and a hand washing fixture with hands-free operable controls. When a cast room is provided it shall be equipped with hand washing facilities, plaster sink, storage, and other provisions required for cast procedures.

(VI) Film processing room. When a radiographic (X-ray) room is provided, a darkroom for processing film shall be provided unless the processing equipment does not require a darkroom for loading and transfer. When daylight processing is used, the darkroom may be minimal for emergency and special uses. Film processing shall be located convenient to the darkroom.

(VII) Decontamination room. When provided, a decontamination room shall have an exterior entry point and as far as practical from any other entry point to the emergency treatment area. The internal door from the decontamination room shall open directly to the corridor into the emergency treatment area. The door shall swing into the room and be lockable against ingress from the corridor. The room shall have a minimum clear floor area of at least 80 square feet and a hand washing fixture with hands-free operable controls.

(B) Holding or observation room area.

(i) Location. When a holding or observation room or area is provided within or adjacent to the emergency suite, it shall comply with the following.

(I) Single occupancy room area. A single occupancy holding or observation room shall have a minimum clear area of 100 square feet exclusive of fixed and movable cabinets and shelves. The holding or observation room shall contain a work counter and hand washing fixture with hands-free operable controls.

(II) Single occupancy room location. The single occupancy holding or observation room shall be near the nurse station and near a patient toilet room that contains a hand washing fixture with hands-free operable controls.

(III) Multiple occupancy room area. In a multiple occupancy holding or observation room or area, the clearance between the side of the gurney and a wall or partition shall be at least three feet. The clearance between sides of the gurneys shall be at least six feet. The minimum distance at the foot of the gurney shall not be less than seven feet for a single load area or room or ten feet for a double load area or room. Four feet of the passage space at the foot of the gurney may be shared between two gurneys. The multiple occupancy holding or observation room or area shall contain cabinets, work counters, and a hand washing fixture with hands-free operable controls. One hand washing fixture shall be provided for every four holding or observation gurneys or fraction thereof. Fixtures shall be uniformly distributed. The fixed and moveable cabinets and shelves shall not encroach upon the gurney clear floor space or area.

(IV) Toilet room. In a multiple occupancy holding or observation room or area, a patient toilet room with a hand washing fixture with hands-free operable controls shall be provided within the room or area.

(ii) Multiple occupancy room location. When a multiple occupancy holding or observation room is not within or adjacent to the emergency suite, the following additional spaces shall be provided:

(I) a stretcher and wheelchair storage alcove, that shall be located out of the line of traffic;

(II) a clean storage room for clean supplies, linen and medication as needed that is located within or adjacent to the holding or observation room and contains a hand washing fixture with hands-free operable controls;

(III) a soiled workroom located within or adjacent to the holding or observation room and contains a work counter, a clinical sink or equivalent flushing type fixture, hand washing fixture with hands-free operable controls, waste receptacles, and soiled linen receptacles; and

(IV) a housekeeping room located within or near the holding or observation room and contains a floor receptor or service sink and storage space for housekeeping supplies and equipment.

(C) Trauma center. When provided, a trauma center shall comply with subparagraph (B) of this paragraph and the following requirements.

(i) Trauma room. At least one trauma room shall be provided with 250 square feet of clear floor area exclusive of aisles and fixed and moveable cabinets and shelves. The minimum clear dimension between fixed cabinets and built-in shelves shall be 12 feet. The trauma room shall contain a work counter, cabinets, medication storage, and examination light.

(ii) Multiple-station trauma room. When multiple-patient stations are provided, the clearance between the head of the gurney to the wall or partition shall be at least three feet. The clearance between the side of a gurney and a wall or partition shall be at least six feet. The clearance between the sides of gurneys shall be at least twelve feet. The minimum distance at the foot of the gurney shall not be less than seven feet for a single load area or room or ten feet for a double load area or room. Four feet of the passage space at the foot of the gurney may be shared between two gurneys. The multiple-station trauma room shall contain cabinets, medication storage, work counter, examination light, and scrub sink with hands-free operable controls. The fixed and moveable cabinets and shelves shall not encroach upon the gurney clear floor space or area.

(iii) Scrub facilities. A scrub station shall be located at the entrance to each trauma room either inside or outside of the room. One scrub station may serve two trauma gurneys. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts. The scrub sinks shall be recessed out of the main line of traffic.

(iv) Doorways. All doorway openings from the ambulance entrance to the trauma room shall be at least five feet wide.

(D) Emergency clinic. When an emergency clinic (that may also be referred to as "urgent care," "fast track," "express care," "minor care," etc.) is provided, the clinic shall be separate and distinct from the emergency treatment area and trauma center and shall meet all the requirements of subparagraph (A) of this paragraph. All facilities required by subparagraph (A) of this paragraph may be shared with the emergency treatment area and trauma center except for the emergency treatment room. An emergency treatment room in the emergency clinic shall not be less than 100 square feet. An emergency exam room in the emergency clinic shall not be less than 80 square feet.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph.

(A) Details.

(i) Area. Trauma rooms shall have ceiling heights not less than nine feet.

(ii) Fixtures. The decontamination room shall be equipped with two hand-held showerheads with temperature controls and a dedicated holding tank with a floor drain.

(B) Finishes.

(i) Flooring. Flooring used in a trauma room, treatment room, examination room, holding area, and soiled workroom shall be of the seamless type as required by §511.162(d)(2)(B)(iii)(III) of this subchapter. Seamless type flooring is not required in the examination room in the emergency clinic.

(ii) Ceiling. Ceilings in soiled workrooms, isolation rooms, and trauma rooms shall be of the monolithic type as required by §511.162(d)(2)(B)(vi)(III) of this subchapter.

(iii) Surfaces. The decontamination room floor shall be self-coved to a height of six inches. The room shall have all smooth, nonporous, scrubbable, nonabsorbent and nonperforated surfaces.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) Duct linings. Duct linings exposed to air movement shall not be used in ducts serving any trauma rooms, treatment rooms, examination rooms, holding areas, and clean room. This requirement

shall not apply to mixing boxes and acoustical traps that have special coverings over such lining.

(B) Air supply. When a trauma room is provided under paragraph (1)(C)(i) of this subsection, the air supply for the trauma or surgical room shall be from ceiling outlets that are as near the work centers as possible, and a minimum of two low return inlets shall be located diagonally opposite from one another.

(C) Return air inlets. Return air inlets shall be not lower than four inches nor higher than 12 inches from floor level.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter and this paragraph.

(A) Medical gas systems. Medical gas systems shall be provided in accordance with §511.162(d)(4)(A)(iii) of this subchapter.

(B) Ice machine. An ice machine shall be provided for therapeutic purposes and shall be located in the clean utility room. A self-dispensing ice machine shall be provided for ice for human consumption.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph.

(A) General.

(i) Examination room electrical receptacles. Each treatment and examination room in the emergency treatment area and trauma center shall have at least six duplex electrical receptacles located convenient to the head of each patient station.

(ii) Emergency clinic suite electrical receptacles. Each treatment and examination room in the emergency clinic suite shall have a minimum of four duplex electrical receptacles located convenient to the head of each patient station.

(iii) Work counter electrical receptacles. Each work counter and table shall have access to at least one duplex receptacle connected to the critical branch of the emergency electrical system.

(iv) Film illuminators. The LSRH shall provide X-ray film illuminators for handling at least four films simultaneously in all treatment, examination, and trauma rooms in the emergency treatment area. When the entire emergency treatment area is provided with digital imaging, at least two X-ray film illuminators shall be provided within a central location within the emergency treatment area.

(B) Nurses calling systems. The nurse call system shall comply with §511.162(d)(5)(L) of this subchapter and Table 7 of §511.169(g) of this subchapter.

(f) Employees suite.

(1) Architectural requirements.

(A) Compliance. Architectural requirements shall comply with §511.162(d)(1) of this subchapter and this paragraph.

(B) Lockers, lounges, toilets, and showers. Lockers, lounges, toilets, and showers shall be provided within the LSRH for employees and volunteers. These facilities are in addition to, and separate from, those required for the medical staff and the public.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this chapter.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter.

(g) Engineering suite and equipment areas.

(1) Architectural requirements. Architectural requirements comply with §511.162(d)(1) of this subchapter and this paragraph.

(A) General. The following facilities shall be provided:

(i) an engineer's office with file space and provisions for protected storage of facility drawings, records, manuals, etc.;

(ii) a general maintenance shop or shops for repair and maintenance;

(iii) a separate room for building maintenance supplies and equipment, and storage of bulk solvents and flammable liquids shall be in a separate building and not within the LSRH building;

(iv) a medical equipment room that includes provisions for the storage, repair, and testing of electronic and other medical equipment;

(v) a separate room or building for yard maintenance equipment and supplies. When a separate room is within the physical plant the room shall be located so that equipment may be moved directly to the exterior. Yard equipment or vehicles using flammable liquid fuels shall not be stored or housed within the LSRH building; and

(vi) sufficient space in all mechanical and electrical equipment rooms for proper maintenance of equipment. Provisions shall also be made for removal and replacement of equipment.

(B) Additional areas or rooms. Additional areas or rooms for mechanical, and electrical equipment shall be provided within the physical plant or installed in separate buildings or weather-proof enclosures with the following exceptions.

(i) An area shall be provided for cooling towers and heat rejection equipment when such equipment is used.

(ii) An area for the medical gas park and equipment shall be provided. For smaller medical gas systems, the equipment may be housed in a room within the physical plant in accordance with National Fire Protection Association 99, Standard for Health Care Facilities, 2012 edition (NFPA 99), Chapters 4 and 8.

(iii) When provided, compactors, dumpsters, and incinerators shall be located in an area remote from public entrances.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter.

(h) General storage. A general storage room shall be provided at least equal to five percent of the total area of the patient care units.

(i) Hyperbaric suite.

(1) Architectural requirements. When a hyperbaric suite is provided, it shall meet the requirements of NFPA 99 Chapter 20, and NFPA 101 Chapter 18.

(A) Hyperbaric chamber clearances. Multiple occupancy chambers (Class A) shall comply with NFPA 99 Chapter 20. The minimum clearances for individual (Class B) hyperbaric chambers and the side of a chamber and a wall or partition shall be at least three feet. The clearance between sides of chambers shall be at least six feet. The minimum distance at the chamber entry shall not be less than seven feet for a single load area or room or ten feet for a double load area or room. Four feet of the passage space at the chamber entry may be shared between two chambers. The chamber room shall contain cabinets, medication storage, work counter and a hand washing fixture with hands-free operable controls. The fixed and movable cabinets and shelves shall not encroach upon the chamber clear floor space or area.

(B) Service areas. The following minimum service areas and facilities shall be provided convenient to the hyperbaric chamber suite.

(i) Patient waiting area. The area shall be out of traffic, under staff control, and shall have seating capacity in accordance with the LSRH's functional program. Patient waiting areas are not required where two or fewer individual hyperbaric chamber units are provided.

(ii) Control desk and reception area. A control desk and reception area shall be provided.

(iii) Holding area. A holding area under staff control shall accommodate patients on stretchers or beds. Stretcher patients shall be out of the direct line of normal traffic. The patient holding area is not required where two or fewer individual hyperbaric chamber units are provided.

(iv) Patient toilet rooms. Toilet rooms shall be provided with hand washing fixtures with hands-free operable controls and with direct access from the hyperbaric suite.

(v) Patient dressing room. A dressing room for outpatients shall be provided and shall include a seat or bench, mirror, and provisions for hanging patients' clothing and for securing valuables. At least one dressing room shall be provided to accommodate wheelchair patients.

(vi) Staff facilities. Toilets with hand washing fixtures with hands-free operable controls may be outside the suite but shall be convenient for staff use. These facilities may be shared with an adjacent suite.

(vii) Consultation room. An appropriate consultation room for individual consultation with referring clinicians shall be provided for outpatients. This room may be shared with an adjacent suite.

(viii) Storage space. A clean storage space shall be provided for clean supplies and linens. The space shall contain a hand washing fixture with hands-free operable controls. The storage room may be shared with another department if convenient to both.

(ix) Soiled holding room. A soiled holding room shall be provided with waste receptacles and soiled linen receptacles. This room may be shared with an adjacent suite.

(x) Hand washing. A lavatory equipped for hand washing with hands-free operable controls shall be located in the room where the hyperbaric chambers are located.

(xi) Housekeeping room. The housekeeping room shall contain a floor receptor or service sink, storage space for housekeeping supplies and equipment, and be located nearby.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph.

(A) Grounding of hyperbaric chambers shall be connected only to the equipment ground in accordance with NFPA 99 §3-3.2.1.2, and National Fire Protection Association 70, National Electrical Code, 2011 edition (NFPA 70) Article 250 (A)-(C), and Article 517.

(B) Additional grounds such as earth or driven grounds shall not be permitted.

(C) The nurse call shall comply with §511.162(d)(5)(L) and Table 7 of §511.169(g) of this subchapter.

(j) Imaging suite.

(1) Architectural requirements.

(A) General. An LSRH shall have a diagnostic radiographic (X-ray) room convenient to emergency suites, and where provided surgery suites.

(i) Room size. All diagnostic imaging room sizes shall be in compliance with the manufacturer's recommendations for the specific equipment. Clearance and unobstructed space shall not be less than three feet around the diagnostic equipment.

(ii) Radiation protection. When radiation protection is required for any diagnostic imaging room, a medical physicist licensed under the Texas Occupations Code Chapter 602 (relating to Medical Physicists), shall specify the type, location, and amount of radiation protection to be installed for the layout and equipment selections.

(iii) Shielded control. Each room where radiation protection is required shall include a shielded control alcove. The control alcove shall be provided with a view window designed to permit full view of the examination table and the patient at all times.

(iv) Warning signs. Warning signs capable of indicating that the equipment is in use shall be provided.

(v) Ventilation requirements. Diagnostic and procedure room intended for patients with airborne infectious diseases shall meet the ventilation requirements as contained in Table 3 of §511.169(c) of this subchapter.

(B) Diagnostic X-ray and radiographic and fluoroscopy (R&F) rooms. X-ray and R&F rooms shall comply with the manufacturer's recommendations for the specific equipment. Clearance and unobstructed space shall not be less than three feet around the diagnostic equipment.

(i) Control alcove. A control alcove shall be provided with a view window designed to provide full view of the patient at all times.

(ii) Toilet room. A toilet room shall be provided including a hand washing fixture with hands-free operable controls and have direct access to each R&F room and a corridor.

(C) Noninvasive angiography imaging room. When noninvasive angiography imaging is provided, the room shall have a minimum clear floor area of 250 square feet exclusive of built-in shelves or cabinets. Clearance and unobstructed space shall not be less than three feet around the diagnostic equipment.

(i) Control alcove. A control alcove shall be provided with a view window designed to provide full view of the patient at all times.

(ii) Viewing room or area. A viewing room or area shall be provided and shall be at least 10 feet in length. The viewing room or area may be provided in combination with the control room.

(iii) Scrub sink. A scrub sink shall be near the entrance to each angiographic room and shall be recessed out of the main traffic areas or corridor. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts.

(iv) Storage space. Storage space for portable equipment and supplies shall be provided.

(D) Computerized tomography (CT) scanning. When CT services are provided, the CT room's size shall comply with the manufacturer's recommendations and shall contain the following.

(i) Control room. A control room shall be provided with a view window permitting view of the patient. The control room shall be located to allow convenient film processing.

(ii) Patient toilet room. A patient toilet shall be provided conveniently to the procedure room. When directly accessible to the scan room, the toilet shall be arranged so that a patient may leave the toilet room without having to reenter the scan room. The toilet room shall have a hand washing fixture with hands-free operable controls.

(E) Mammography. When mammography services are provided, the room shall have a minimum clear floor area of 100 square feet exclusive of built-in shelves or cabinets.

(i) Control alcove. A control alcove shall be provided with a view window designed to provide full view of the patient at all times.

(ii) Built-in shielding. When mammography machines with built-in shielding for the operator are provided, the alcove is not required when approved by a medical physicist licensed under Texas Occupations Code Chapter 602.

(F) Magnetic resonance imaging (MRI). When MRI services are provided, the room shall be of sufficient size to house equipment but no less than 325 square feet of clear floor area exclusive of built-in shelves or cabinets.

(i) Control alcove. A control alcove shall be provided with a view window designed to provide full view of the patient at all times.

(ii) Computer room. A separate computer room shall be provided to accommodate the equipment.

(iii) Cryogen storage requirements. When cryogen is provided, a storage room or closet shall have a minimum clear floor area of 50 square feet for two large dewars of cryogen. A storage room or closet is required in areas where service to replenish supplies is not readily available.

(iv) Darkroom. When a darkroom is provided, the room shall be located near the required control room and shall be outside the 10-gauss field.

(v) Spectroscopy. When spectroscopy is provided, caution should be exercised in locating it in relation to the magnetic fringe fields.

(vi) Magnetic shielding. Magnetic shielding may be required to restrict the magnetic field plot. Radio frequency shielding is required to attenuate stray radio frequencies.

(vii) Patient holding area. A patient holding area shall be provided and shall be located near the MRI unit and be large enough to accommodate stretchers.

(viii) Hand washing fixture. A hand washing fixture with hands-free controls shall be provided near the entrance to the MRI room and shall be recessed out of the main traffic areas or corridor.

(ix) 3T magnetic strength MRI. A 3T or larger magnetic strength MRI shall be secured behind locked doors. The patient and staff entrance to the MRI shall have a traffic pattern from the waiting, dressing, holding and work areas through a lockable control station before entering the MRI. At no time shall patients or nonpatients be allowed to enter this restricted area without MRI staff present when the magnet is active.

(G) Ultrasound room. When ultrasound services are provided, the room's size shall comply with the manufacturer's recommendations. A patient toilet room shall be provided convenient to the procedure room and a corridor. The toilet room shall have a hand washing fixture with hands-free operable controls.

(H) Cardiac catheterization laboratory. The cardiac catheterization laboratory is normally a separate suite, but may be within the imaging suite. If provided, a cardiac catheterization laboratory shall comply with the requirements of subsection (w)(1)(C) of this section.

(I) Service areas. The following common service areas shall be provided.

(i) Patient waiting area. The area shall be out of traffic and under direct staff visual control.

(ii) Control desk and reception area. A control desk and reception area shall be provided.

(iii) Holding area. The holding area shall be out of direct traffic patterns and under visual control by staff. At least one stretcher station shall be provided for each three diagnostic and procedure rooms or fraction thereof. The minimum clear floor space in the holding area shall be 80 square feet exclusive of aisles and fixed and moveable cabinets and shelves. The area shall contain cabinets, a work counter, and a hand washing fixture with hands-free operable controls. The holding area may be reduced to 50 square feet exclusive of aisles and fixed and moveable cabinets and shelves for mammography, bone density, and other similar procedures.

(iv) Post-procedure observation room. When invasive diagnostic X-ray services are provided with anesthesia, a room for extended post-procedure observation of patients shall be provided. The minimum clear floor space for the observation space shall be 100 square feet exclusive of aisles and fixed and moveable cabinets and shelves. The room shall contain cabinets, a work counter, and a hand washing fixture with hands-free operable controls.

(v) Patient toilet rooms. A toilet room with hand washing facilities shall be located convenient to the waiting area.

(vi) Patient dressing rooms or cubicles. Dressing rooms or cubicles shall be convenient to the waiting areas and X-ray rooms. Each room shall include a seat or bench, mirror, and provisions for hanging patients' clothing and for securing valuables. At least one dressing room shall be provided to accommodate wheelchair patients.

(vii) Hand washing facilities. A hand washing fixture with hands-free controls shall be provided in or near the entrance to each diagnostic and procedure room unless noted otherwise. When a hand washing fixture is provided in the room, the fixture shall be located near the entrance to the room or near the staff entrance. When a hand washing fixture is located outside the room, the fixture shall be recessed in the egress corridor and located within five feet of the entrance to the room. Hand washing facilities shall be arranged to minimize any incidental splatter on nearby personnel or equipment.

(viii) Staff facilities. Toilets may be outside the suite and may be shared with other departments but shall be convenient for staff use. When four or more diagnostic or procedure imaging rooms are provided, a staff toilet is required with a hand washing fixture with hands-free controls.

(ix) X-ray film illuminator viewers. When all the diagnostic and imaging procedures are provided with digital imaging, two mounted X-ray film illuminator viewers shall be provided in the central viewing area or room.

(x) Contrast media preparation. This room shall include a work counter, a sink with hands-free operable controls, and storage. One preparation room may serve any number of rooms. When prepared media is used, this area is not required, but storage shall be provided for the media.

(xi) Film processing room. A darkroom shall be provided for processing film unless the processing equipment normally used does not require a darkroom for loading and transfer. When daylight processing is used, the darkroom may be minimal for emergency and special uses. Film processing shall be located convenient to the procedure rooms and to the quality control area.

(xii) Quality control area or room. An area or room for film viewing shall be located near the film processor. All view boxes shall be illuminated to provide light of the same color value and intensity.

(xiii) Film storage (active). When X-ray film is used, it shall be stored in a room with a cabinet or shelves for filing patient film for immediate retrieval.

(xiv) Film storage (inactive). When X-ray film is used, a room for inactive film storage shall be provided. It may be outside the imaging suite, but must be under the administrative control of imaging suite personnel and be properly secured to protect films against loss or damage.

(xv) Storage for unexposed film. When X-ray film is used, storage facilities for unexposed film shall include protection of film against exposure or damage.

(xvi) Storage of cellulose nitrate film. When used, cellulose nitrate film shall be stored in accordance with the requirements of National Fire Protection Association 40, Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film, 2011 edition.

(xvii) Additional spaces. When four or more diagnostic or procedure rooms are provided in the LSRH, the following shall be required:

(1) an office for radiologists and assistants;

(II) clerical office spaces, as necessary for the functional program;

(III) consultation area or room;

(IV) medication station. Storage and preparation of medication shall be done from a room, alcove area, or from a self-contained dispensing unit but must be under visual control of nursing staff. A work counter, hand washing fixture with hands-free operable controls, refrigerator, and double-locked storage for controlled substances shall be provided. Standard cup-sinks are not acceptable for hand washing;

(V) clean storage room. Clean storage room shall be provided for clean supplies and linens. A hand washing fixture shall be provided with hands-free operable controls. When conveniently located, the clean storage room may be shared with another department; and

(VI) soiled workroom. The soiled workroom shall not have direct connection to the diagnostic and procedure rooms. The room shall contain a clinical sink or equivalent flushing type fixture, work counter, hand washing fixture with hands-free operable controls, waste receptacle, and soiled linen receptacle. When contaminated soiled material or fluid waste is not handled, only a soiled holding room shall be required.

(xviii) Housekeeping room. The room may serve multiple departments when conveniently located.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph.

(A) Details.

(i) Radiation protection. Radiation protection shall be designed, tested, and approved by a medical physicist licensed under Texas Occupations Code Chapter 602.

(I) Room shielding. Room shielding calculations for linear accelerators, teletherapy units and remote control brachytherapy units must be submitted to the Department of State Health Services Radiation Control Program (RC) for approval prior to use. Shielding in diagnostic radiographic rooms will be reviewed by RC inspectors, in the field, subsequent to use. Any changes in design or shielding that affects radiation exposure levels adjacent to those rooms requires prior approval by RC.

(II) Facility design and environmental controls. Facility design and environmental controls associated with licensable quantities of radioactive material in laboratories, imaging rooms, or both shall be approved by RC prior to licensed authorizations.

(ii) Protected alcoves. Where protected alcoves with view windows are required, provide a minimum of one foot six inches from the edge where the glazing and the frame connect and the outside partition edge.

(iii) Ceilings. Imaging procedure rooms shall have ceiling heights not less than nine feet. Ceilings containing ceiling-mounted equipment shall be of sufficient height to accommodate the equipment of fixtures and their normal movement.

(B) Finishes.

(i) Flooring. Flooring used in contrast media preparation and soiled workroom shall be of the seamless type as required by §511.162(d)(2)(B)(iii)(III) of this subchapter.

(ii) Ceilings. A lay-in type ceiling is acceptable for the diagnostic and procedure rooms.

(3) Mechanical Requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) Cryogen gas venting and exhaust. The cryogen gas venting from the MRI unit shall be exhausted to the exterior. When a cryogen storage room is provided to replenish supplies, the storage room shall be vented and exhausted to the exterior.

(B) Air conditioning. Self-contained air conditioning to supplement the cooling capacity in computer rooms is permitted.

(C) Air handling units. Air handling units serving the imaging suite shall be equipped with filters having efficiencies equal to, or greater than specified in Table 4 of §511.169(d) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter and this paragraph. When automatic film processors are used, a receptacle of adequate size with hot and cold water for cleaning the processor racks shall be provided.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph.

(A) General.

(i) Each imaging procedure room shall have at least four duplex electrical receptacles.

(ii) A special grounding system in areas such as imaging procedures rooms where a patient may be treated with an internal probe or catheter shall comply with NFPA 99 Chapter 9 and NFPA 70 Article 517.

(iii) General lighting with at least one light fixture powered from a normal circuit shall be provided in imaging procedures rooms in addition to special lighting units at the procedure or diagnostic tables.

(B) Nurses calling system. The nurse call shall comply with §511.162(d)(5)(L) and Table 7 of §511.169(g) of this subchapter.

(k) Laboratory suite.

(1) Architectural requirements.

(A) General.

(i) Laboratory facilities. Laboratory facilities and services shall be provided by the LSRH such as hematology, clinical chemistry, urinalysis, cytology, anatomic pathology, immunohematology, microbiology, bacteriology and others.

(ii) Code requirements. Each laboratory unit shall meet the requirements of NFPA 99 Chapter 11 (relating to Laboratories), and NFPA 101 Chapter 18 (relating to New Health Care Occupancies).

(B) Minimum laboratory facilities. When laboratory services are provided off site by contract, the following minimum facilities shall be provided within the LSRH.

(i) Laboratory work room. The laboratory workroom shall include a counter and a sink with hands-free operable controls.

(ii) General storage. Cabinets or closets shall be provided for supplies and equipment used in obtaining samples for testing. A refrigerator or other similar equipment shall be provided for specimen storage waiting for transfer to off-site testing.

(iii) Blood storage facilities. Refrigerated blood storage facilities for transfusions shall be provided. The blood storage

refrigerator shall be equipped with temperature monitoring and alarm signals.

(iv) Specimen collection facilities. A blood collection area shall be provided with a counter, space for seating, and hand washing fixture with hands-free operable controls. A toilet and lavatory with hands-free operable controls shall be provided for specimen collection. This facility may be outside the laboratory suite if conveniently located.

(C) On-site laboratory facilities. When the LSRH provides on-site laboratory services, the following facilities shall be provided in addition to the requirements in subparagraphs (A) and (B) of this paragraph.

(i) Laboratory workroom. The laboratory work room shall include a counter, space appropriately designed for laboratory equipment and a sink with hands-free operable controls.

(ii) General storage. Storage, including refrigeration for reagents, standards, supplies, and stained specimen microscope slides, etc. shall be provided. Separate facilities shall be provided for such incompatible materials as acids and bases, and vented storage shall be provided for volatile solvents.

(iii) Chemical safety facilities. When chemical safety is a requirement, provisions shall be made for an emergency shower and eye flushing devices.

(iv) Flammable liquids. When flammable or combustible liquids are used, the liquids shall be stored in approved containers, in accordance with National Fire Protection Association 30, Flammable and Combustible Liquids Code, 2012 edition.

(v) Radioactive materials. When radioactive materials are employed, storage facilities shall be provided.

(D) Bone marrow laboratory. A cryopreservation laboratory and a human leukocyte antigen laboratory shall be provided in hospitals providing bone marrow transplantation services.

(E) Service areas and facilities. The following service areas and facilities shall be provided.

(i) Hand washing facilities. Each laboratory room or work area shall be provided with a hand washing fixture with hands-free operable controls.

(ii) Office spaces. The scope of laboratory services shall determine the size and quantity for administrative areas including offices as well as space for clerical work, filing, and record maintenance. At a minimum, an office space shall be provided for the use of the laboratory service director.

(iii) Staff facilities. Lounge, locker, and toilet facilities shall be conveniently located for male and female laboratory staff. These may be outside the laboratory area and shared with other departments.

(iv) Housekeeping room. A housekeeping room shall be located within the suite or conveniently located nearby.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter. Floors in laboratories shall comply with the requirements of §511.162(d)(2)(B)(iii) of this subchapter except that carpet flooring shall not be used.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) Air recirculation. No air from the laboratory areas shall be recirculated to other parts of the LSRH. Recirculation of air within the laboratory suite is allowed.

(B) Laboratory hoods. When laboratory hoods are provided, they shall meet the following general requirements.

(i) Face velocity. The average face velocity of each exhaust hood shall be at least 75 feet per minute.

(ii) Exhaust system. The exhaust shall be connected to an exhaust system to the exterior that is separate from the building exhaust system. Biological safety cabinets with HEPA filters and alarms to alert staff do not have to be exhausted to the exterior. If the air changes for biological safety cabinets as provided in Table 3 of §511.169(c) of this subchapter do not provide sufficient air for proper operation of the safety cabinets (when in use), supplementary make-up air (filtered and preheated) shall be provided around these units to maintain the required airflow direction and exhaust velocity. Make-up air system for safety cabinets shall be arranged to minimize "short circuiting" of air and to avoid reduction in air velocity at the point of contaminant capture.

(iii) Exhaust fan. The exhaust fan shall be located at the discharge end of the system.

(iv) Exhaust duct system. The exhaust duct system shall be of noncombustible and corrosion-resistant material.

(v) Fume hoods. Where fume hoods are used, the design should consider the placement and types of air distribution devices to avoid the disturbance of a uniform velocity across the face of the hood.

(C) Special laboratory hoods. When special laboratory hoods are provided, they shall meet the following special standards for these types of hoods.

(i) Associated equipment. Fume hoods, and their associated equipment in the air stream, intended for use with perchloric acid and other strong oxidants, shall be constructed of stainless steel or other material consistent with special exposures, and be provided with a water wash and drain system to permit periodic flushing of duct and hood. Electrical equipment intended for installation within such ducts shall be designed and constructed to resist penetration by water. Duct systems serving these hoods shall be constructed of acid-resistant stainless steel for at least 10 feet from the hood. Lubricants and seals shall not contain organic materials. When perchloric acid or other strong oxidants are only transferred from one container to another, standard laboratory fume hoods and the associated equipment may be used in lieu of stainless steel construction.

(ii) Infectious or radioactive material laboratory hoods. Each laboratory hood used to process infectious or radioactive materials shall have a minimum face velocity of 90-110 feet per minute and be connected to an independent exhaust system, with suitable pressure-independent air modulating devices and alarms to alert staff of fan shutdown or loss of airflow. Each hood shall also have filters with a 99.97 percent efficiency (based on the dioctyl-phthalate (DOP) test method) in the exhaust stream, and be designed and equipped to permit the safe removal, disposal, and replacement of contaminated filters. Filters shall be as close to the hood as practical to minimize duct contamination.

(iii) Radioactive isotope hoods. Fume hoods intended for use with radioactive isotopes shall be constructed of stainless steel or other material suitable for the particular exposure and shall comply with National Fire Protection Association 801, Standard

for Facilities Handling Radioactive Materials, 2003 edition and NFPA 99 §11.3.5.

(iv) Air modulating devices. Each laboratory hood shall have a suitable pressure-independent air modulating device and alarm to alert staff of fan shutdown or loss of airflow. The alarm shall be audible within the laboratory and at a 24-hour manned location.

(D) Filtration requirements. Filtration requirements for air handling units serving the laboratory suite shall be equipped with filters having efficiencies equal to, or greater than specified in Table 4 of §511.169(d) of this subchapter.

(E) Duct linings. Duct linings exposed to air movement shall not be used in ducts serving any laboratory room and clean room unless terminal filters of at least 80 percent efficiency are installed downstream of linings. This requirement shall not apply to mixing boxes and acoustical traps that have special coverings over such lining.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter and this paragraph.

(A) General.

(i) Faucet spouts. Faucet spouts at lavatories and sinks shall have clearances adequate to avoid contaminating utensils and the contents of beakers, test tubes, etc.

(ii) Sink drain lines. Drain lines from sinks used for acid waste disposal shall be made of acid-resistant material.

(iii) Other drain lines. Drain lines serving some types of automatic blood-cell counters must be of carefully selected material that will eliminate potential for undesirable chemical reactions, explosions, or both between sodium azide wastes and copper, lead, brass, and solder, etc.

(B) Medical gas systems. When provided, medical gas systems shall comply with §511.162(d)(4)(A)(iii) and (iv) of this subchapter. The number of outlets in the laboratory for vacuum, gases, and air shall be determined by the LSRH's functional program requirements.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter.

(A) Blood storage refrigerator alarm. The blood storage refrigerator shall have an alarm device to indicate a temperature increase or malfunction and indicate an audible warning at a 24-hour manned location.

(B) Blood storage refrigerator connection. The blood storage refrigerator shall be connected to the critical branch of the emergency essential electrical system.

(C) Exhaust hoods. All exhausts hoods shall be connected to the emergency essential electrical system.

(l) Laundry suite. Laundry facilities shall be provided on site or off site. On-site laundry services may be within the LSRH or in a separate building on-site. The laundry facilities shall be separated from a patient treatment room, patient examination room, and a patient diagnostic room, or areas of food preparation and storage, and areas in which clean supplies and equipment are stored.

(1) Architectural requirements.

(A) When laundry service is provided on site, it shall comply with the following.

(i) Soiled and clean linen processing room. Soiled and clean linen processing rooms shall be provided. When the soiled and clean linen processing are combined in a single room, each process shall be physically separated within the room.

(ii) Hand washing facilities. Adequate hand washing facilities shall be provided in both the soiled and clean processing areas.

(iii) Receiving, holding, and sorting room. A receiving, holding, and sorting room for control and distribution of soiled linen shall be provided. This area may be combined with the soiled linens processing room. Discharge from soiled linen chutes may be received in the soiled room or area or in a separate dedicated room.

(iv) Laundry processing room. A laundry processing room shall be provided with a commercial washer and dryer capable of processing at least a seven-day laundry supply within the regular scheduled work week.

(v) Clean linen processing room. A clean linen processing room or area shall be provided with folding counters or tables. This area shall have provisions for inspections, folding, packing, and mending of linen.

(vi) Storage room. A holding room or area for storage and issuing of clean linen shall be provided but may be combined with clean linen processing room.

(vii) Storage space. Storage space and cabinets for soaps, stain removers, and other laundry processing agents shall be located in the soiled and clean processing room or areas.

(viii) Laundry equipment. Laundry equipment shall be arranged so that the processing of laundry is an orderly work flow from soiled to clean operations. Cross-traffic shall be held to a minimum to prevent contamination.

(B) Off-site laundry. When laundry service is provided off site, the following minimum requirements shall be provided on site:

(i) a service entrance that shall have a drive under canopy for protection from inclement weather, for loading and unloading of linen;

(ii) a control station for pickup and receiving. This may be a room at the common loading dock, in the soiled linen holding room, or the central clean linen storage room;

(iii) a soiled linen holding room; and

(iv) a central clean linen storage and issuing room in addition to linen storage required at the individual patient units.

(C) Required areas or rooms. The following areas or rooms shall be provided regardless of delivery type of laundry service:

(i) office space for the director of laundry services;

(ii) cart storage rooms for clean and soiled linen. The cart storage areas may be provided within the clean and soiled rooms. Carts may not be parked or stored in the egress corridor;

(iii) cart sanitizing facilities that comply with subsection (b) of this section;

(iv) staff toilet in the laundry suite or convenient for staff use and with a hand washing fixture with hands-free operable controls;

(v) lockers for staff use may be in laundry suite or part of a central locker room when convenient to the laundry; and

(vi) housekeeping room within the laundry suite or available nearby.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter.

(3) Mechanical Requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) Ventilation system. The ventilation system shall include adequate intake, filtration, exchange rate, and exhaust in accordance with Table 3 and Table 4 of §511.169(c) and (d) of this subchapter, respectively.

(B) Filtration. Filtration requirements for air handling units serving the laundry suite shall be equipped with filters having efficiencies equal to, or greater than specified in Table 4 of §511.169(d) of this subchapter.

(C) Air flow. Direction of air flow of the HVAC systems shall be from clean to soiled areas.

(D) Soiled processing ventilation. The ventilation system for soiled processing area shall have negative air pressure while the clean processing area shall have positive pressure.

(E) Lint interceptors. Lint interceptors shall be located outside the laundry area. Drainage piping that serves laundry equipment shall employ suds-control features.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter.

(m) Medical records suite.

(1) Architectural requirements. The following rooms, areas, or offices shall be provided in the medical records suite:

(A) medical records administrator or technician office;

(B) review and dictating rooms or spaces;

(C) work area that includes provisions for sorting, recording, scanning, or microfilming records; and

(D) file room. When nondigital files are stored on site, the room shall be considered as hazardous. The construction protection for the storage room or area shall comply with Chapter 18 of NFPA 101 §18.3.2.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter.

(n) Mental health and chemical dependency treatment.

(1) General requirements. Areas that a patient receiving mental health or chemical dependency services at the LSRH may occupy shall comply with the requirements in this subsection.

(2) Details and finishes.

(A) Details.

(i) Security. The type and degree of security and patient safety required in the suite shall be determined by LSRH administration and described in the LSRH's functional program narrative, unless stated otherwise within these rules.

(ii) Visibility. All areas where a person receiving mental health services is located in the LSRH, including entrances to patient care rooms, shall be visible from the nurse station. Observation by video cameras of seclusion rooms, entrances, hallways, and activity areas shall be acceptable.

(iii) Fasteners. All exposed and accessible fasteners shall be tamper-resistant.

(iv) Hardware. Suitable hardware shall be provided on doors to toilet rooms so that access to these rooms can be controlled by staff. Hardware shall be utilized that is appropriate to prevent patient injury.

(v) Breakaway fixtures. Only breakaway or collapsible clothes bars in wardrobes, lockers, and closets and shower curtain rods shall be permitted in areas that a patient receiving mental health or chemical dependency treatment services may occupy in the LSRH.

(vi) Hangers. Wire coat hangers shall not be permitted in the suite.

(vii) Special hardware. Special fixtures, hardware, and tamper-proof screws are required throughout the suite.

(viii) Grab bars. Horizontal grab bars shall be constructed to prevent looping or tying of cords, ropes, etc.

(ix) Safety glazing. Where glass fragments may create a hazard, safety glazing or other appropriate security features shall be incorporated.

(B) Finishes. Patient sleeping rooms, patient toilet rooms and seclusion rooms shall have monolithic ceilings and bonded walls for patient safety and security measures. The ceiling in the soiled workroom shall be monolithic type as required by §511.162(d)(2)(B)(vi)(III) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall be in accordance with 25 TAC §133.163(t)(3) and this paragraph. Special consideration shall be given to the type of heating and cooling units, ventilation outlets, and appurtenance installed in patient-occupied areas of mental health nursing units. The following shall apply:

(A) All air grilles and diffusers shall be of a type that prevents the insertion of foreign objects.

(B) All convector or HVAC enclosures exposed in the room shall be constructed with rounded corners and shall have enclosures fastened with tamper-resistant fasteners.

(C) HVAC equipment shall be of a type that minimizes the need for maintenance within the room.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall be in accordance with 25 TAC §133.163(t)(4) and this paragraph.

(A) Piping systems.

(i) Medical gas. Piped medical gas systems are not required.

(ii) Sprinklers and showerheads. Only tamper-proof sprinkler and tamper-proof showerheads from which it is not possible to suspend any objects shall be installed.

(B) Plumbing fixtures.

(i) Faucet controls. Faucet controls shall not be equipped with handles that may be easily broken off.

(ii) Bedpan washers. Bedpan washers are not allowed in patient bathrooms or toilet rooms.

(5) Electrical requirements. Electrical requirements shall be in accordance with 25 TAC §133.163(t)(5) and this paragraph.

(A) Nurse call. A nurse call system shall comply with the requirements of §511.162(d)(5)(L) and Table 7 of §511.169(g) of this subchapter. Pull cords shall not exceed 18 inches in length, and provisions shall be made to permit removal of call buttons and use of blank plates as required for security.

(B) Each patient room shall have duplex grounded receptacles. There shall be one receptacle at each side of the head of each bed and one on every other wall. Receptacles in areas intended for mental health and chemical dependency patients of all ages shall be protected by GFCI breakers installed in distribution panel enclosures serving the unit.

(C) Fifteen-ampere and 20-ampere, 125-volt receptacles intended to supply patient care areas shall be tamper-resistant as permitted by NFPA 70, §517-18, or shall be protected by GFCI breakers. A tamper-resistant receptacle is one that is constructed to limit improper access to its energized contacts.

(o) Morgue.

(1) Architectural requirements.

(A) General. When a morgue or body-holding room is provided, it shall be located to avoid the need for transporting bodies of deceased patients through public areas. A body-holding room shall be provided.

(B) Autopsy performed within LSRH. When autopsies are performed within the LSRH, the following rooms, areas, and equipment shall be provided.

(i) Facilities. Refrigerated facilities shall be provided for body-holding.

(ii) Room requirements. The autopsy room shall contain work counters, hand washing facilities with hands-free operable controls, autopsy table and storage space for supplies, equipment and specimens.

(iii) Sink. A deep sink shall be provided for washing specimens.

(iv) Change area. A clothing change area shall be provided with shower, toilet, hand washing facilities and lockers.

(C) Service areas. The following service areas shall be provided:

(i) a pathologist office;

(ii) staff toilets may be outside the suite but be convenient for staff use with a hand washing fixture with hands-free operable controls; and

(iii) a housekeeping room that meets the requirements of §511.162(d)(2)(A)(xxviii) of this subchapter shall be provided for the exclusive use of the morgue when autopsies are performed.

(D) Minimum requirements. If autopsies are performed outside the LSRH, a well-ventilated, temperature-controlled, nonrefrigerated body-holding room shall be provided.

(2) Details and finishes. Details and finishes shall be in accordance with §511.162(d)(2) of this subchapter and this paragraph.

(A) Flooring used in the autopsy room shall be the seamless type as required by §511.162(d)(2)(B)(iii)(III) of this subchapter.

(B) Ceilings in the autopsy rooms shall be monolithic as required by §511.162(d)(2)(B)(vi)(III) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall be in accordance with §511.162(d)(3) of this subchapter and this paragraph.

(A) The autopsy room shall be equipped with low exhaust grilles.

(B) The body-holding room shall be ventilated in accordance with Table 3 of §511.169(c) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall be in accordance with §511.162(d)(4) of this subchapter.

(5) Electrical requirements. Electrical requirements shall be in accordance with §511.162(d)(5) of this subchapter and this paragraph. Refrigerators for body-holding in the autopsy room shall be connected to the equipment branch of the essential electrical distribution system.

(p) Nuclear medicine suite.

(1) Architectural requirements.

(A) General. When nuclear medicine services are provided, the facilities may be in a separate suite or combined with an imaging suite.

(i) Radiation protection. When nuclear medicine requires radiation protection, a medical physicist licensed under Texas Occupations Code Chapter 602 shall specify the type, location, and amount of radiation protection to be installed for the layout, equipment selections and storage, handling and disposal of radioactive material.

(ii) Room size. The nuclear medicine room shall be sufficiently sized to house all fixed and moveable equipment and allow a minimum of three feet of clear and unobstructed working space on all sides of equipment accessible to staff and patient.

(B) Radioisotope room (Hot lab). When radiopharmaceutical preparation is performed on site, the room shall include sufficient space for equipment, storage of radionuclides, chemicals for preparation, dose calibrators, and record keeping. When preprepared materials are used, storage and calculation area may be smaller than for on-site preparation.

(i) Radiation shielding. The room and isotope handling areas within the room shall have appropriate radiation shielding.

(ii) Radioisotope storage. There shall be a shielded area or enclosed shielded cabinet for long-term storage of decaying radioisotopes.

(iii) Hood exhaust. When venting of radioactive gases is required, a hood shall exhaust to the exterior.

(C) Positron emission tomography (PET). When PET services are provided, scanner and cyclotron rooms shall be in compliance with the manufacturer's recommendations and provide a minimum of three feet of clear and unobstructed working space on all sides of equipment accessible to staff and patient.

(i) Control alcove. A control alcove shall be provided with a view window permitting view of the patient.

(ii) Equipment area. An equipment area large enough to contain necessary electronic and electrical gear shall be provided.

(iii) Dose administration room. A dose administration room with radiation shielding shall be located near the treatment room. Patients in route to procedure rooms shall not pass through public corridors and waiting rooms after injection with radioisotope.

(iv) Patient toilet. A patient toilet with radiation shielding shall be provided with or adjacent to the dose administration room. The patient toilet room shall contain a hand washing fixture with hands-free operable controls.

(D) Service areas.

(i) Patient waiting area. The area shall be out of traffic and under direct staff visual control.

(ii) Control desk and reception area. A control desk and reception area shall be provided.

(iii) Dictation and report preparation area. The dictation and report preparation area may be incorporated with the control station.

(iv) Holding area. The holding area shall be under direct staff control, out of the direct line of traffic, and have space for stretchers. The holding area shall accommodate two stretchers for the first procedure room with one additional station for each additional procedure room.

(v) Patient toilet facilities. A toilet room with a hand washing fixture with hands-free operable controls shall be provided convenient to the waiting room and procedure room.

(vi) Staff toilet facilities. Toilets and hand washing fixtures with hands-free operable controls may be outside the suite but shall be convenient for staff use.

(vii) Patient dressing rooms or cubicles. Dressing rooms or cubicles shall be provided convenient to the waiting areas and procedure rooms. Each room or cubicle shall include a seat or bench, mirror, and provisions for hanging patients' clothing and for securing valuables. At least one dressing room shall be provided to accommodate patients using wheelchairs.

(viii) Exam rooms. When examination rooms are provided, each room shall have a minimum of 100 square feet of clear floor area exclusive of built-in shelves or cabinets. Each exam room shall be equipped with a work counter and a hand washing fixture with hands-free operable controls.

(ix) Dose administration area. When a dose administration area is provided, the area shall be located near the preparation area and include visual privacy for the patients.

(x) Computer control area or room. Computer control area shall be located within or adjacent to the treatment room or rooms. When a centralized computer area is provided, it shall be a separate room with access terminals available within the treatment rooms.

(xi) Film processing room. A darkroom shall be provided for film processing unless the processing equipment normally used does not require a darkroom for loading and transfer. When daylight processing is used, the darkroom may be minimal for emergency and special uses. Film processing shall be located convenient to the treatment room or rooms and to the quality control area.

(xii) Quality control area or room. A quality control area shall include view boxes illuminated with light of the same color value and intensity.

(xiii) Film storage room (active). A room with cabinet or shelves for filing patient film for immediate retrieval shall be provided.

(xiv) Film storage room (inactive). A room for inactive film storage may be located outside the nuclear medicine suite, but must be under the administrative control of nuclear medicine personnel and properly secured to protect films against loss or damage.

(xv) Digital imaging. If digital imaging is utilized throughout the suite, the darkroom film processing area and film viewers is not required.

(xvi) Storage for unexposed film. Storage facilities for unexposed film shall include protection of film against exposure or damage.

(xvii) Offices for physicians, oncologist, physicists, and assistants. Offices shall include provisions for individual consultation, viewing, and charting of film.

(xviii) Clerical office spaces. Clerical office spaces shall be provided.

(xix) Consultation room. A consultation room shall be provided.

(xx) Clean storage room. A clean storage room shall be provided for clean supplies and linens. A hand washing fixture shall be provided with hands-free operable controls. When conveniently located, the clean storage room may be shared with another department.

(xxi) Soiled workroom. The soiled workroom shall not have direct connection to the nuclear medicine procedure or diagnostic rooms or sterile activity rooms. The room shall contain a clinical sink or equivalent flushing type fixture, work counter, hand washing fixture with hands-free operable controls, waste receptacle, and soiled linen receptacle. When contaminated soiled material or fluid waste is not handled, only a soiled holding room is required.

(xxii) Housekeeping room. The housekeeping room shall be located within the suite.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph.

(A) Details.

(i) Radiation protection. Radiation protection shall be designed, tested and approved by a medical physicist licensed under Texas Occupations Code Chapter 602.

(I) Room shielding. Room shielding calculations for the stipulated rooms within the nuclear medicine suite must be submitted to the Department of State Health Services Radiation Control Program (RC) for approval prior to use. Shielding in diagnostic radiographic rooms will be reviewed by RC inspectors, in the field, subsequent to use. Any changes in design or shielding that affects radiation exposure levels adjacent to those rooms requires prior approval by RC.

(II) Facility design and environmental controls associated with licensable quantities of radioactive material in laboratories or procedure rooms must be approved by RC prior to licensed authorizations.

(ii) The nuclear medicine treatment rooms shall have ceiling heights not less than nine feet. Ceilings containing ceil-

ing-mounted equipment shall be of sufficient height to accommodate the equipment of fixtures and their normal movement.

(B) Finishes.

(i) Flooring. Flooring used in the nuclear medicine procedure room, any work or treatment areas where radioactive material is handled, and soiled workrooms shall be of the seamless monolithic type as required by §511.162(d)(2)(B)(iii)(III) of this subchapter.

(ii) Ceiling. Ceilings in radiopharmacy, hot laboratory, and soiled workrooms shall be monolithic as required by §511.162(d)(2)(B)(vi)(III) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) Radiopharmaceutical preparations. When radiopharmaceutical preparations are performed, vents and traps for radioactive gases shall be provided.

(B) Direction of air flow of the HVAC system shall be from nonradioactive spaces into the radioactive spaces. A minimum of two return air inlets located diagonally opposite from one another and near floor level shall be provided.

(C) In the PET suite, special ventilation systems together with monitors, sensors, and alarm systems shall be required to vent gases and chemicals. The ventilation shall be directly to the exterior.

(D) Filtration requirements for air handling units serving the nuclear medicine suite shall be equipped with filters having efficiencies equal to, or greater than specified in Table 4 of §511.169(d) of this subchapter.

(E) Where fume hoods are used, the design should consider the placement and types of air distribution devices to avoid the disturbance of a uniform velocity across the face of the hood. Fume hoods shall be exhausted directly to the exterior.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph.

(A) General.

(i) Nuclear medicine procedure room. Each nuclear medicine procedure room shall have at least four duplex electrical hospital grade receptacles.

(ii) Nuclear medicine procedures rooms shall have general lighting in addition to that provided by special lighting units at the procedure tables.

(B) Nurses calling systems. The nurse call shall comply with §511.162(d)(5)(L) and Table 7 of §511.169(g) of this subchapter.

(q) Nursing unit. The requirements in this subsection apply to nursing units in LSRHs. Architectural requirements shall comply with §511.162(d)(1) of this subchapter and this subsection.

(1) Accessibility requirements. At least 10 percent of each patient room type, isolation room, bathing units and toilets in medical/surgical, intermediate care, universal care, antepartum, postpartum, mental health, chemical dependency, and pediatric nursing units and all public and common use areas shall be designed and constructed to be Americans with Disabilities Act (ADA) accessible. These requirements shall apply in all new construction and when an existing nursing

unit or a portion thereof is converted from one service to another (e.g., mental health care to medical or surgical nursing care).

(2) Patient room suites. A patient room suite shall consist of the patient room and a bathroom. Patient room suites shall comply with the following requirements.

(A) Maximum patient room capacity. The maximum patient room capacity shall be two patients. In existing facilities where renovation work is undertaken and the present capacity is more than two patients, the maximum room capacity shall be no more than the present capacity with a maximum of four patients.

(B) Single-patient station room. In a single-patient station room, the minimum clear floor area shall be 120 square feet.

(C) Multi (two)-patient station room. The clearance between the side of a station and a wall or partition shall be a minimum of three feet. The clearance between sides of stations shall be a minimum of five feet. The minimum distance at the foot of the station shall not be less than four feet for a single load area or room or seven feet for a double load area or room. Four feet of the passage space at the foot of the station may be shared between two stations.

(D) Multi (two)-station accessible patient room. The clearance between the side of a station and a wall or partition shall be a minimum of five feet. The clearance between sides of stations shall be a minimum of four feet. The minimum distance at the foot of the station shall not be less than four feet for a single load area or room or seven feet for a double load area or room. Four feet of the passage space at the foot of the station may be shared between two stations.

(E) Arrangement of patient rooms. Minor encroachments including columns and wall hung lavatories that do not interfere with functions may be ignored when determining space requirements for patient rooms.

(i) Clear floor space. Required clear floor space in patient rooms shall be exclusive of toilet rooms, closets, lockers, built-in cabinets, wardrobes, alcoves, or vestibules.

(ii) Visual privacy. Visual privacy shall be provided each patient in multi-station room. Design for privacy shall not restrict independent patient access to the corridor, lavatory, or bathroom.

(F) Patient bathroom. Each patient shall have access to a bathroom without having to enter the general corridor area. Each bathroom shall contain a toilet with bed pan washers, hand washing fixture with hands-free operable controls, bathing facilities, and storage shelf or cabinet and serve not more than two patient rooms. Hand washing facilities shall be located in the patient room and in the patient bathroom. The hand washing fixture in the room shall be located outside of the patient's cubicle curtain in multi-station patient room.

(G) Patient storage. Each patient shall have a separate wardrobe, locker, or closet that is suitable for hanging full-length garments and for storing personal effects. A minimum of 12 lineal inches of hanging space shall be provided per patient.

(3) Airborne infection isolation suites. Where provided, a minimum of one isolation room shall be designated for pediatric patient care. Each airborne infection isolation suite shall consist of a work area, a patient room, and a patient bathroom.

(A) The work area may be a separately enclosed anteroom or a vestibule that is open to and is located immediately inside the door to the patient room. It shall have facilities for hand washing, gowning, and storage of clean and soiled materials. One enclosed anteroom may serve multiple isolation rooms.

(B) Each patient room shall have a clear floor area of 120 square feet exclusive of the work area and shall contain only one patient station. A patient bathroom shall be provided in accordance with paragraph (2)(F) of this subsection.

(C) At least one airborne infection isolation suite with an enclosed anteroom shall be provided.

(D) A door from an anteroom to an airborne infection isolation room and a door from an egress corridor into an anteroom shall be provided with a self-closing device. When an isolation room does not have an anteroom, the door from the egress corridor into the isolation room shall be provided with a self-closing device. When sliding doors are used in isolation rooms and in surgical suite post-anesthesia care units, the self-closing device may not be required as long as assurances of negative air pressure are met when sliding doors are opened.

(E) Pressure differential monitors or air flow devices shall be installed outside the isolation room and anteroom. Devices shall be installed in corridors, passageways, etc.

(F) Where a special assisted bathing facility is provided, it shall meet the requirements of this paragraph, including space for attendant, for patients on stretchers, carts, and wheelchairs. This may be on another floor if convenient for use. The central bathing room shall contain a bathtub that is accessible to a patient using a wheelchair or a shower that can accommodate a gurney. The room shall have space for drying and dressing and be provided with a hand washing fixture with hands-free operable controls and a toilet with three feet of clear space on sides and front of the water closet; The nurse call shall comply with §511.162(d)(5)(L) and Table 7 of §511.169(g) of this subchapter.

(r) LSRH-based outpatient suite.

(1) Architectural requirements.

(A) Site, administration and public areas. The following areas shall be provided.

(i) Public waiting area. Toilet facilities, public telephone, and drinking fountain shall be provided. When pediatric services are provided, pediatric and adult patients waiting areas shall be separate.

(ii) Control station. A control station shall be located to permit staff observation of waiting area and control of access to LSRH-based outpatient clinical rooms.

(iii) Wheelchair storage alcove. The alcove provided for wheelchair storage shall be located out of line of traffic.

(iv) Interview space. Interview spaces shall be provided for social services, credit, and admissions. Provisions shall be made for privacy and dignity of the patient during interview, LSRH-based outpatient clinical services.

(v) Office. At least one office shall be provided for business transaction, records, and administrative and professional staff.

(B) LSRH-based outpatient room. The room shall have a minimum clear floor area of 100 square feet exclusive of fixed cabinets and shelves. Each examination room shall contain a work counter, examination light and hand washing fixture with hands-free operable controls. A clearance of three feet shall be provided at each side and the foot of the examination table.

(C) Service areas. The following service areas and facilities shall be provided within the outpatient suite unless noted otherwise.

(i) Nurse stations. The nurse station shall contain a work counter, communication system, space for supplies, and provisions for charting.

(ii) Hand washing fixtures. Hand washing fixtures with hands-free operable controls shall be available at all patient care areas.

(iii) Patient toilet rooms. A toilet room shall be conveniently located to treatment rooms, examination rooms, and diagnostic rooms and shall include hand washing fixtures with hands-free operable controls.

(iv) Staff toilet facilities. Toilet rooms equipped with hand washing fixtures with hands-free operable controls shall be provided for the exclusive staff use. Toilet facilities may be provided in conjunction with the staff lounge.

(v) Staff lounge. A staff lounge with separate male and female staff clothing change rooms and toilets with hand washing fixtures with hands-free operable controls shall be provided in an LSRH having a total of six or more LSRH-based outpatient clinical rooms.

(vi) Medication station. Storage and distribution of medication may be done from a medicine preparation room, medicine alcove area, or from a self-contained medicine dispensing unit but must be under visual control of nursing staff. A work counter, a hand washing fixture with hands-free operable controls, refrigerator, and double-locked storage for controlled substances shall be provided. Standard cup-sinks provided in many self-contained units are not acceptable for hand washing. The medication station may be shared with the clean workroom.

(vii) Dictation and report preparation area. This area may be accessible from the lounge.

(viii) Cast room. When a cast room is provided, it shall be equipped with hand washing facilities, plaster sink, storage, and other provisions required for cast procedures.

(ix) Wheelchair and stretcher storage. Wheelchair and stretcher storage space or alcove shall be provided and located out of direct line of traffic.

(x) Storage. Storage facilities shall be provided for office supplies, sterile supplies, pharmaceutical supplies, splints and other orthopedic supplies, and housekeeping supplies and equipment.

(xi) Ice machine. A self-dispensing ice machine shall be provided.

(xii) Clean workroom. A clean workroom or clean supply room shall be provided.

(xiii) Storage room. A storage room for the outpatient services shall be provided at least equal to five percent of the total area of the outpatient suite. This required storage room area may be combined with general stores.

(xiv) Soiled workroom. A soiled workroom shall be provided. It shall not have direct access to any patient treatment, examination, diagnostic rooms, or sterile rooms. The room shall contain a clinical sink or equivalent flushing rim fixture, work counter, hand washing fixture with hands-free operable controls, waste receptacle, and linen receptacle.

(xv) Housekeeping room. The housekeeping room shall be located within the suite.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph. Treatment

rooms shall be provided with seamless flooring in accordance with requirements contained in §511.162(d)(2)(B)(iii)(III) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph. Filtration requirements for air handling units serving the outpatient and surgical suite shall be equipped with filters having efficiencies equal to, or greater than specified for patient care areas in Table 4 of §511.169(d) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter and this paragraph. Sinks used for the disposal of plaster of paris shall have a plaster trap.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph. The nurse call shall comply with §511.162(d)(5)(L) and Table 7 of §511.169(g) of this subchapter.

(s) Pharmacy suite.

(1) Architectural requirements.

(A) General. The pharmacy room or suite shall be located for convenient access, staff control, and security for drugs and personnel.

(B) Dispensing area. The pharmacy room or suite shall include the following functional spaces and facilities:

(i) area for pickup, receiving, reviewing and recording;

(ii) extemporaneous compounding area with sufficient counter space for drug preparation and sink with hands-free operable controls;

(iii) work counter space for automated and manual dispensing activities;

(iv) storage or areas for temporary storage, exchange, and restocking of carts; and

(v) security provisions for drugs and personnel in the dispensing counter area.

(C) Manufacturing. The pharmacy room or suite shall provide the following functional spaces and facilities for the manufacturing area:

(i) bulk compounding area with work space and counters; and

(ii) area for packaging, labeling and quality control.

(D) Storage. The following spaces shall be provided in cabinets, shelves, or separate rooms or closets:

(i) space for bulk storage, active storage, and refrigerated storage;

(ii) storage in a fire safety cabinet or storage room that is constructed under the requirements for protection from hazardous areas in accordance with NFPA 101 Chapter 12, for alcohol or other volatile fluids, when used;

(iii) storage in a secure vault, safe, or double locking wall cabinet for narcotics and controlled drugs; and

(iv) storage space for general supplies and equipment not in use.

(E) Intravenous (IV) solutions area. When IV solutions are prepared in a pharmacy, a sterile work area shall be provided and

be in compliance with 22 TAC §291.133 (relating to Pharmacies Compounding Sterile Preparations) and the United States Pharmacopeia Chapter 797, Pharmaceutical Compounding—Sterile Preparations.

(i) IV work area components. The IV work area shall consist of a preparation room, hood room and, if provided, a separate chemo-hood room. Access to the preparation room shall be through the pharmacy only, access to the hood room or chemo-hood room shall be through the preparation room only.

(ii) Preparation room components. The preparation room shall contain a work counter, gowning area, and shelving.

(iii) Hand washing fixtures. A hand washing fixture with hands-free operable controls shall be in the preparation room and within five feet of each entrance to the hood room or chemo-hood room. Hand washing fixtures and floor drains are not allowed inside the hood room or chemo-hood room.

(iv) Laminar-flow hoods/work stations. Laminar-flow hoods/work stations shall be located inside the hood room.

(F) Compounding aseptic isolator (CAI). When a CAI is used for compounding in lieu of the IV solutions area, it may be done within the pharmacy provided it complies with the following.

(i) CAI requirements. The CAI shall provide isolation from the room and maintain the International Organization for Standardization (ISO) Class 5 (100 particles greater than or equal to 0.5 microns per cubic foot) levels during dynamic operating conditions including transferring ingredients, components, and devices into and out of the isolator and during preparation of compounded sterile preparations.

(ii) Particle counts. The particle counts sampled shall be six to 12 inches upstream of the critical exposure site within the CAI and maintain ISO Class 5 levels during compounding operations.

(iii) CAI documentation. The pharmacy shall obtain documentation from the manufacturer that the CAI will meet this standard when located in worse than ISO Class 7 (10,000 particles greater than or equal to 0.5 microns per cubic foot environments).

(G) Administrative areas. The following functional spaces and facilities shall be included for the administrative areas:

(i) office area for the chief pharmacist and any other offices areas required for records, reports, accounting activities, and patients profiles;

(ii) poison control center with storage facilities for reaction data and drug information centers; and

(iii) a room or area for counseling and instruction when individual medication pick-up is available for inpatients or outpatients.

(H) Satellite pharmacy facilities. When provided, the room shall include a work counter, a sink with hands-free operable controls, storage facilities, and refrigerator for medications. As applicable, items required in subparagraphs (B) and (C) of this paragraph may be incorporated into the satellite pharmacy.

(I) Service areas and facilities. The following service areas and facilities shall be provided.

(i) Hand washing facilities. A hand washing fixture with hands-free operable controls shall be located in each room where open medication is handled except for IV prepared chemo-hood rooms.

(ii) Staff facilities. Toilet rooms with hand washing fixture with hands-free operable controls may be outside the suite but shall be convenient for staff use.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph.

(A) Flooring. Flooring in the IV solutions area for the preparation room, hood room and chemo-hood room shall be seamless and coved to the wall.

(B) Ceilings. IV solutions area ceiling and wall finishes for the preparation room, hood room and chemo-hood room shall be interlocking monolithic panels and sealed together or monolithic epoxy-painted gypsum board. The ceiling shall be coved to the wall.

(C) Sealing requirements. All penetrations in the walls and ceilings shall be sealed.

(D) Door requirements. The door from hood room shall swing into the preparation room. The door from preparation room shall swing into the chemo room. The door from preparation room shall swing into pharmacy.

(3) Mechanical Requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) Laminar-flow system. When IV solutions are prepared, the required laminar-flow system shall include a nonhygroscopic filter rated at 99.97 percent (HEPA). A pressure gauge shall be installed for detection of filter leaks or defects.

(B) Fume hoods for chemotherapy. When fume hoods are used for chemotherapy, the air and fumes shall be exhausted directly to the exterior. The hood exhaust shall not use the building exhaust system. When more than one fume hood is in the same hood room and the work stations face each other, at least six feet must separate work area openings.

(C) General fume hood requirements. When fume hoods are used, the design should consider the placement and types of air distribution devices to avoid the disturbance of a uniform velocity across the face of the hood.

(D) Filtration. All air entering the IV solutions area for the preparation room, hood room and chemo-hood room shall be HEPA filtered.

(E) Air pressure. In the IV solutions area the air pressure in the preparation room shall be positive to the pharmacy, the hood room shall be positive to the preparation room, and the chemo-hood room shall be negative to the preparation room.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter and this paragraph.

(A) Material used for plumbing fixtures shall be nonabsorptive and acid-resistant.

(B) Water spouts used at lavatories and sinks shall have clearances adequate to avoid contaminating utensils and the contents of carafes, etc.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph.

(A) Under-counter receptacles. Under-counter receptacles and conduits shall be arranged (raised) to not interfere with cleaning of the floor below or of the equipment.

(B) Exhaust hoods. Exhaust hoods shall have an indicator light indicating that the exhaust fan is in operation.

(C) Electrical circuits. Electrical circuits to equipment in wet areas shall be provided with five milliamperere GFCI.

(t) Radiotherapy suite. When radiotherapy services are provided, the suite may contain equipment for electron beam therapy, radiation therapy, or both. The following facilities shall be provided.

(1) Architectural requirements.

(A) Radiation protection. Cobalt, linear accelerators, and simulation rooms require radiation protection. A medical physicist licensed under Texas Occupations Code Chapter 602, shall specify the type, location, and amount of radiation protection to be installed for the layout and equipment selections. Room layouts and construction shall prevent the escape of radioactive particles. Openings into the room, including doors, ductwork, vents, and electrical raceways and conduits, shall be baffled to prevent direct exposure to other areas of the facility.

(B) Room size. Cobalt, linear accelerator, and simulation rooms shall be sized in accordance with the installed equipment requirements, patient access on a stretcher, medical staff access to the equipment and patient, and access for servicing the equipment.

(C) Mold room. When a mold room is provided, it shall contain a ventilation hood exhausted to the exterior and a hand washing fixture with hands-free operable controls.

(D) Block room. A block room with storage for the linear accelerator may be combined with the mold room.

(E) Hot laboratory. A hot laboratory in support of cobalt therapy shall be provided.

(F) Service areas. The following service areas shall be provided unless these are accessible from other departments such as imaging or outpatient areas:

(i) a stretcher hold area adjacent to the treatment rooms, screened for privacy, and combined with a seating area for outpatients;

(ii) exam rooms for each treatment room shall be at least 100 square feet and shall be provided with hand washing facilities;

(iii) a patient gowning area with provisions for safe storage of valuables and clothing. At least one space shall be sized to allow for staff-assisted dressing;

(iv) convenient access to a housekeeping room;

(v) film file area;

(vi) film storage area for unprocessed film; and

(vii) a radioisotope decay room, that may be combined with the hot lab.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph.

(A) Details.

(i) Radiation protection. Radiation protection shall be designed, tested, and approved by a medical physicist licensed under the Texas Occupations Code Chapter 602.

(ii) Room shielding. Room shielding calculations for linear accelerators, cobalt, and simulation rooms shall be submitted to the Department of State Health Services Radiation Control Program (RC) for approval prior to use. Shielding in diagnostic radiographic rooms will be reviewed by inspectors, in the field, subsequent to use. Any changes in design or shielding that affects radiation exposure levels adjacent to those rooms requires prior approval by RC.

(iii) Ceiling heights. The cobalt, simulation, and linear accelerator rooms shall have ceiling heights not less than nine feet. Ceilings containing ceiling-mounted equipment shall be of sufficient height to accommodate the equipment of fixtures and their normal movement.

(iv) Ceiling-mounted equipment. Properly designed rigid support structures for ceiling-mounted equipment shall be located above the finished ceiling.

(B) Finishes.

(i) Flooring. Flooring in the soiled workroom and any work or treatment areas in the radiotherapy suite where radioactive materials are handled shall be of the seamless type as required by §511.162(d)(2)(B)(iii)(III) of this subchapter.

(ii) Walls. Walls shall be constructed of materials that are easily decontaminated from accidental radioactive spills and finished in accordance with §511.162(d)(2)(B)(iv) of this subchapter.

(iii) Ceilings. Ceilings in the hot laboratory and soiled workroom shall be monolithic as required by §511.162(d)(2)(B)(vi)(III) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) Fume hoods. Where fume hoods are used, the design should consider the placement and types of air distribution devices to avoid the disturbance of a uniform velocity across the face of the hood.

(B) Radioactive material fume hoods. Each hood used to process radioactive materials shall have a minimum face velocity of 90-110 feet per minute, be connected to an independent exhaust system, with suitable pressure-independent air modulating devices and alarms to alert staff of fan shutdown or loss of airflow. Each hood shall also have filters with a 99.97 percent efficiency (based on the dioctyl-phthalate (DOP) test method) in the exhaust stream, and be designed and equipped to permit the safe removal, disposal, and replacement of contaminated filters. Filters shall be as close to the hood as practical to minimize duct contamination.

(4) Plumbing fixtures and piping systems. Piping systems and plumbing fixtures shall comply with the requirements of §511.162(d)(4) of this subchapter.

(5) Electrical requirements. Each radiotherapy suite shall comply with the requirements of §511.162(d)(5) of this subchapter and this paragraph.

(A) Radiotherapy procedure room. Each radiotherapy procedure room shall have at least four electrical receptacles.

(B) Ground fault circuit. Ground fault circuit interrupters shall not be used in radiotherapy procedure rooms.

(C) Nurses calling system. The nurse call shall comply with §511.162(d)(5)(L) and Table 7 of §511.169(g) of this subchapter.

(u) Rehabilitation therapy suite. Rehabilitation therapy may include one or more categories of services. Where two or more rehabilitation services are provided, the services may share common areas when appropriate.

(1) Architectural requirements.

(A) Occupational therapy. When occupational therapy services are provided, the following rooms or areas shall be included:

(i) an activity area with work areas, counters and a hand washing fixture with hands-free operable controls. Work areas and counters shall be suitable for wheel chairs;

(ii) an area for teaching daily living activities with space for a bed, kitchen counter with appliances and sink, bathroom, and a table and chair. The daily living activities area may be combined with the activity area;

(iii) an office for the occupational therapist; and

(iv) a storage room for supplies and equipment.

(B) Physical therapy. When physical therapy services are provided, the following rooms or areas shall be included.

(i) Provisions shall be made for thermotherapy, diathermy, ultrasonics, and hydrotherapy when required by the LSRH's functional program.

(ii) Treatment areas shall be provided with at least 70 square feet of clear floor area for each patient station, exclusive of four foot aisle space. Privacy screens or curtains shall be provided at each treatment station.

(iii) A hand washing fixture with hands-free operable controls shall be provided in each treatment room or space. One hand washing fixture may serve up to four patient stations when cubicles or open room concepts are used and when the fixture is conveniently located.

(iv) An area shall be provided for exercise and may be combined with treatment areas in open plan concepts.

(v) An office shall be provided for the physical therapist.

(vi) Separate storage shall be provided for soiled linen, towels, and supplies.

(vii) A storage area or room for equipment, clean linen, and supplies shall be provided.

(viii) When outpatient physical therapy services are provided, the suite shall have as a minimum patient dressing areas, showers and lockers. These shall be accessible and usable by people with disabilities.

(C) Prosthetics and orthotics. When prosthetics and orthotics services are provided, the following rooms or areas shall be included:

(i) work space with counters and shelves for technicians;

(ii) a treatment space for evaluating and fitting with privacy screens or curtains; and

(iii) a storage area or room for equipment and supplies.

(D) Speech and hearing. When speech and hearing services are provided, the following rooms or areas shall be included:

(i) a space for evaluating and treatment with privacy screens or curtains; and

(ii) a storage area or room for equipment and supplies.

(E) Service areas. The following areas or items shall be provided in a rehabilitation therapy suite, but may be shared when multiple rehabilitation services are offered:

(i) patient waiting area out of traffic with space for wheelchairs;

(ii) patient toilet facilities containing hand washing fixtures, with hands-free operable controls;

(iii) reception and control stations shall be located to provide supervision of activities areas. The control station may be combined with office and clerical spaces;

(iv) office and clerical space;

(v) wheelchair and stretcher storage room or alcove that shall be in addition to other storage requirements;

(vi) lockable closets, lockers or cabinets for securing staff personal effects;

(vii) staff toilets may be outside the suite but shall be convenient for staff use and contain hand washing fixtures with hands-free operable controls;

(viii) soiled holding room; and

(ix) housekeeping room with service sink, conveniently accessible.

(2) Details and finishes.

(A) Details. Details shall comply with §511.162(d)(2)(A) of this subchapter.

(B) Finishes. Finishes shall comply with §511.162(d)(2)(B) of this subchapter and this paragraph.

(i) Flooring in a treatment room and soiled workroom shall be of the seamless type as required by §511.162(d)(2)(B)(iii)(III) of this subchapter.

(ii) Wall finishes shall comply with the requirements of §511.162(d)(2)(B)(iv) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph. Air handling units serving the rehabilitation therapy suite shall be equipped with filters having efficiencies equal to, or greater than specified for patient care areas in Table 4 of §511.169(d) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph. The nurse call shall comply with §511.162(d)(5)(L) and Table 7 of §511.169(g) of this subchapter.

(v) Respiratory therapy suite. The type and extent of respiratory therapy services vary greatly in each LSRH.

(1) Architectural requirements.

(A) Respiratory therapy suite. When respiratory services are provided from a centralized area, the following rooms or areas shall be included:

(i) an office for the respiratory therapist;

(ii) office and clerical space with provision for filing and retrieval of patient records;

(iii) receiving/decontamination workroom with work counter or table, a deep sink, and a hand washing fixture with hands-free operable controls;

(iv) a storage room for clean and sterile supplies that is separate from the receiving/decontamination workroom;

(v) when a blood gas analyzer is provided, it shall be located in a room and contain a counter and hand washing sink;

(vi) when a portable blood gas analyzer is used, it may be used in rooms that have a work counter and hand washing facilities with hands-free operable controls and storage of the unit may occur in an alcove or equipment storage room;

(vii) patient waiting area with space for wheelchairs;

(viii) reception and control station with visual control of waiting and activities areas;

(ix) patient toilet facilities that include hand washing fixtures with hands-free operable controls;

(x) office and clerical space; and

(xi) consultation/education room.

(B) Cough-inducing and aerosol-generating procedures. All cough-inducing procedures performed on patients who may have infectious Mycobacterium tuberculosis shall be performed in rooms, booths or special enclosures using local exhaust ventilation devices with HEPA filters located at the discharge end and exhaust directly to the outside.

(C) Service areas. The following areas and facilities shall be provided for the respiratory therapy suite but may be shared with other departments when conveniently located:

(i) wheelchair and stretcher storage room or alcove that is in addition to other storage requirements;

(ii) lockable closets, lockers or cabinets for securing staff personal effects;

(iii) staff toilets that include a hand washing fixture with hands-free operable controls. Staff toilets may be located outside suite if location is near and convenient; and

(iv) the housekeeping room shall be located within the suite or nearby, and shall contain a service sink and storage space for housekeeping supplies and equipment.

(2) Details and finishes.

(A) Details. Details shall comply with §511.162(d)(2)(A) of this subchapter.

(B) Finishes. Finishes shall comply with §511.162(d)(2)(B) of this subchapter and this paragraph.

(i) Flooring. Flooring in a decontamination room shall be of the seamless type as required by §511.162(d)(2)(B)(iii)(III) of this subchapter.

(ii) Wall finishes. Wall finishes shall comply with the requirements of §511.162(d)(2)(B)(iv) of this subchapter.

(iii) Ceilings. Ceilings shall comply with §511.162(d)(2)(B)(vi)(III) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter.

(w) Special procedure suite.

(1) Architectural requirements.

(A) General. When special procedures such as endoscopy, bronchoscopy, and cardiac catheterization and other similar special procedures are provided, procedure rooms may be in a separate suite or may be part of the surgical suite.

(i) When special procedure rooms are part of the surgical suite and noninvasive procedures are performed, these rooms are not required to be part of the sterile environment.

(ii) Nonsurgical or noninvasive procedure rooms shall have a minimum clear floor area of 250 square feet, and a minimum clear dimension between fixed cabinets and built-in shelves shall be 14 feet.

(iii) A hand washing fixture or a scrub sink with hands-free controls shall be located within five feet of the entrance to each nonsurgical procedure room either in the room or outside. Hand washing facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts and recessed out of the main traffic areas.

(iv) When general anesthesia or inhalation anesthetizing agents are used during special procedures, these rooms shall comply with the detail, finish, mechanical and electrical requirements for an operating room contained in subsection (x) of this section.

(B) Special procedure room. Special procedure rooms for surgical cystoscopic and other endourologic procedures.

(i) Room area. The procedure room shall have a minimum clear floor area of 350 square feet exclusive of fixed cabinets and shelves. The minimum clear dimension between fixed cabinets and built-in shelves shall be 15 feet.

(ii) Room design. Procedure rooms shall be designed for visual and acoustical privacy for the patient.

(iii) Scrub station. One scrub station shall be located within five feet of the outside entrance of each special procedure surgical room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel, medical equipment, or supply carts. The scrub sinks shall be recessed out of the main traffic areas. The scrub sink shall be located off the restricted areas of the special procedure surgical procedure rooms. Scrub sinks or sinks shall not be located inside the sterile area.

(iv) Changing rooms. Appropriately sized areas shall be provided for male and female changing rooms within the special procedure surgical suite. These areas shall contain lockers, showers, toilets, hand washing fixtures with hands-free operable controls, and space to change into scrub suits and boots. Separate locker or changing rooms shall be provided for male and female staff. The shower and toilet room may be unisex. These areas shall be arranged to provide a traffic pattern so that personnel entering from outside the special procedure surgical suite can shower, change, and move into the restricted portions of special procedure surgical suite.

(C) Catheterization laboratory. A catheterization procedure room may be in a separate suite, part of a special procedure suite, surgical suite, or in the imaging suite. The following items and facilities shall be provided.

(i) The room shall be located in an area restricted to authorized personnel.

(ii) The procedure room shall be a minimum of 400 square feet of clear floor area exclusive of fixed and movable cabinets

and shelves. The minimum clear dimension between fixed cabinets and built-in shelves shall be 18 feet.

(iii) A control room shall have a view window that permits complete observation of the patient from the control console. The control room shall be large enough to contain the efficient functioning of the X-ray and image recording equipment.

(iv) An area for viewing images and film file room shall be provided. When digital imaging is provided throughout the suite, at least two X-ray film illuminators shall be provided within a central location within the catheterization laboratory and the film file room is not required.

(v) An equipment room large enough to contain X-ray transformers, power modules, and necessary electronics and electrical gear shall be provided.

(vi) Appropriately sized areas shall be provided for male and female changing rooms within the catheterization laboratory suite. These areas shall contain lockers, showers, toilets, hand washing fixtures with hands-free operable controls, and space to change into scrub suits and boots. Separate locker or changing rooms shall be provided for male and female staff. The shower and toilet rooms may be unisex. These areas shall be arranged to provide a traffic pattern so that personnel entering from outside the catheterization laboratory can shower, change, and move into the restricted portions of catheterization laboratory.

(vii) One scrub station shall be located within five feet of the outside entrance of each cardiac catheterization laboratory procedure room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel, medical equipment, or supply carts. The scrub sinks shall be recessed out of the main traffic areas. The scrub sink shall be located off the restricted areas of the cardiac catheterization laboratory. Scrub sinks or sinks shall not be located inside the sterile area.

(viii) Sterilizing facilities for immediate or emergency use shall be provided unless instruments are all disposable. A work space and hand washing fixture with hands-free operable controls shall be included.

(D) Patient holding and preparation area. In suites with two or more special procedure rooms, a patient holding and preparation area shall be provided to accommodate ambulatory and stretcher patients and meet the following requirements:

(i) two-stretcher stations shall be provided for first procedure room with one additional station for each additional procedure room;

(ii) the minimum clear floor space in a private holding and preparation room shall be 100 square feet exclusive of toilet room, built-in cabinets, work counter, alcove, or vestibules. A hand washing fixture with hands-free operable controls shall be provided. A minimum of 10 feet width shall be provided for the head wall;

(iii) in a multiple-station holding and preparation area, the clearance between the side of a gurney and a wall or partition shall be a minimum of three feet. The clearance between sides of gurneys shall be a minimum of six feet. The minimum distance at the foot of the gurney shall not be less than seven feet for single load area or room or ten feet for double load area or room. Four feet of the passage space at the foot of the gurney may be shared between two gurneys. The fixed and moveable cabinets and shelves shall not encroach upon the gurney clear floor space or area;

(iv) a control station and charting area arranged to permit staff visual observation of holding and preparation area;

(v) a work counter and a hand washing fixture with hands-free operable controls for every four gurneys located in the preparation area; and

(vi) cubicle curtains at each station for patient privacy.

(E) Recovery room or area. In suites with two or more special procedure rooms, a recovery room or area shall be provided to accommodate ambulatory and stretcher patients and meet the following requirements:

(i) a minimum of one patient recovery station shall be provided for each special procedure room;

(ii) in a single patient recovery room, there shall be a minimum clear area of 130 square feet exclusive of aisles and fixed and moveable cabinets and selves. A minimum of 10 feet width shall be provided for the head wall. The room shall contain cabinets, work counter, and a hand washing fixture with hands-free operable controls. The fixed and movable cabinets and shelves shall not encroach upon the gurney clear floor space or area;

(iii) when multiple-gurney recovery patient stations are provided, the clearance between side of gurney and a wall or partition shall be a minimum of four feet. The clearance between sides of gurneys shall be a minimum of six feet. The minimum distance at the foot of the gurneys shall not be less than eight feet for single load area or room or twelve feet for double load area or room. Four feet of passage space requirement at the foot of the gurney may be shared between two gurneys. The multiple-gurney recovery patient station shall contain cabinets, medication storage, and work counter. The fixed and movable cabinets and shelves shall not encroach upon the gurney clear floor space or area. One hand washing fixture with hands-free operable controls shall be provided for every four stations or fraction thereof;

(iv) a nurse station with a hand washing fixture with hands-free operable controls and charting area shall be provided and arranged to provide visual observation of recovery room area;

(v) a staff toilet room with a hand washing fixture with hands-free operable controls shall be provided and located within the working area to maintain staff availability to patients;

(vi) cubicle curtains shall be provided at each station for patient privacy; and

(vii) the recovery room or area may be within the patient holding area.

(F) Instrument processing room. When instruments and equipment are processed, cleaned and disinfected within the suite, dedicated rooms shall be provided. The room may serve multiple procedure rooms. The following rooms shall be included.

(i) A decontamination room shall be provided and equipped with work counters, two sinks remote from each other and a hand washing fixture with hands-free operable controls. One of the sinks shall be utility type.

(ii) A clean room shall be provided and the process of cleaning the instruments or equipment shall flow from the contaminated area to the clean area, and finally, to storage. The room shall include a work counter and a hand washing sink fixture with hands-free operable controls. Instruments and equipment shall be protected from contamination.

(iii) When endoscopy scope wash rooms are provided, cleaning, washing and drying may occur in the same room. The room shall contain two sinks.

(G) Service areas. The following services shall be provided for all types of special procedure rooms unless noted otherwise.

(i) Control station. In facilities with two or more special procedure rooms in a suite, a nurse station shall be provided and located to permit visual surveillance of all traffic that enters the special procedure rooms suite.

(ii) Dictation and report preparation area. This area may be incorporated with the control station.

(iii) Medication station. Provision shall be made for the storage and distribution of medication to be administered to patients. This may be done from a medicine preparation room, medicine alcove area or from a self-contained medicine dispensing unit. The medicine preparation room, medicine alcove area or self-contained medicine dispensing unit shall be under visual control of nursing staff. A work counter, hand washing fixture with hands-free operable controls, refrigerator, and double-locked storage for controlled substances shall be provided. Standard cup-sinks provided in many self-contained units are not acceptable for hand washing. The medication station may be shared with the clean work room.

(iv) Patient toilet room. A toilet room shall be conveniently located to special procedure rooms and patient changing areas and shall include hand washing fixtures with hands-free operable controls.

(v) Staff toilet facilities. Facilities shall be provided for exclusive staff use and include a hand washing fixture with hands-free operable controls. The toilet may be accessible from a staff lounge, when a staff lounge is provided.

(vi) Storage. A storage room shall be provided for equipment and supplies used in the special procedure suite. Each special procedure suite shall provide at least 150 square feet of storage area or 50 square feet per procedure room, whichever is greater.

(vii) Wheelchair and stretcher storage. A wheelchair and stretcher storage space or alcove shall be provided and located out of direct line of traffic.

(viii) Staff storage. Storage space for employees' personal effects shall be provided.

(ix) Ice machine. An ice machine shall be provided.

(x) Clean storage room. A clean storage room shall be provided for clean supplies and linens. A hand washing fixture shall be provided with hands-free operable controls.

(xi) Soiled workroom. The soiled workroom shall not have direct connection to the special procedure or diagnostic rooms or other sterile or clean activity rooms. The room shall contain a clinical sink or equivalent flushing type fixture, work counter, hand washing fixture with hands-free operable controls, waste receptacle, and linen receptacle.

(xii) Housekeeping room. A housekeeping room shall be provided for the exclusive use of the special procedure suite. It shall be directly accessible from the suite and shall contain a floor receptor or service sink and storage for supplies and housekeeping equipment.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph.

(A) Details. Special procedure rooms shall have ceiling heights not less than nine feet.

(B) Finishes.

(i) **Flooring.** Flooring used in special procedure rooms, decontamination room, and in the soiled workroom shall be of the seamless type as required by §511.162(d)(2)(B)(iii)(III) of this subchapter.

(ii) **Ceilings.** Ceiling finishes in special surgical procedure rooms and isolation rooms, soiled workroom and sterile processing rooms shall be monolithic as required by §511.162(d)(2)(B)(vi)(III) of this subchapter.

(iii) **Nonsurgical special procedure room ceilings.** A lay-in type ceiling is acceptable in nonsurgical special procedure rooms.

(iv) **Nonsurgical or noninvasive cauterization lab ceilings.** A nonsurgical or noninvasive catheterization lab shall have a washable ceiling.

(3) **Mechanical Requirements.** Mechanical requirements comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) **Air supply.** Air supply for the special procedure rooms shall be from ceiling outlets that are as near the work centers as possible. At least two low return inlets shall be located diagonally opposite from one another.

(B) **Return air inlets.** Return air inlets shall be not lower than four inches nor higher than 12 inches from floor level.

(C) **Smoke removal system.** Smoke removal systems shall be provided in accordance with §511.162(d)(3)(D)(iv)(II) of this subchapter, for special procedure rooms that have piped-in nitrous oxide medical gas or where anesthesia is administered to patients.

(D) **Ventilation.** The decontamination room shall meet the ventilation requirements that are contained in Table 3 of §511.169(c) of this subchapter.

(E) **Temperature and humidity indicating devices.** Each special procedure room and recovery room shall have wall-mounted temperature and humidity indicating devices.

(F) **Airborne infection ventilation.** When patients with airborne infectious disease are treated, the room shall meet requirements for airborne infection ventilation for patient care areas in accordance with Table 3 of §511.169(c) of this subchapter.

(4) **Piping systems and plumbing fixtures.** Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter and this paragraph.

(A) **Drainage and waste piping** shall not be installed within the ceiling or installed in an exposed location in special procedure rooms and sterile processing rooms unless precautions are taken to protect the space below from leakage and condensation from necessary overhead piping. Any required secondary protection shall be labeled, "code required secondary drain system" every 20 feet in a highly visible print or label.

(B) A medical gas system shall be provided in accordance with §511.162(d)(4)(A)(iii) and (iv), and Table 6 of §511.169(f) of this subchapter.

(5) **Electrical requirements.** Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph.

(A) **General.**

(i) **X-ray film illuminators.** X-ray film illuminators for handling at least four films simultaneously shall be provided in a central location. When the entire special procedure suite is provided

with digital imaging system capabilities, at least two X-ray film illuminators viewers shall be provided.

(ii) **Electrical receptacles.** Each special procedure room shall have at least six duplex electrical hospital grade receptacles.

(iii) **Additional receptacles.** In locations where mobile X-ray, laser, or other equipment requiring special electrical configuration is used, the additional receptacles shall be distinctively marked for the special use.

(iv) **GFCIs.** The electrical circuits to equipment in wet areas shall be provided with GFCIs. GFCI circuits shall not be used in special procedure rooms. When ground fault circuit interrupters are used in critical areas, provisions shall be made to ensure that other essential equipment is not affected by activation of one interrupter.

(v) **Special grounding system.** Special grounding system in areas such as special procedure rooms where a patient may be treated with an internal probe or catheter the ground system shall comply with NFPA 99 Chapter 10 and NFPA 70 Article 517.

(vi) **Lighting.** Special procedures rooms shall have general lighting in addition to that provided by special lighting units at the procedure tables.

(B) **Nurses calling system.** The nurse call shall comply with §511.162(d)(5)(L) and Table 7 of §511.169(g) of this subchapter.

(x) **Surgical suite.**

(1) **Architectural requirements.**

(A) **General.**

(i) **Waiting room.** A public waiting room shall be provided.

(ii) **Toilet facilities.** Toilet facilities, public telephone, and drinking fountains shall be provided within or nearby.

(iii) **Unrelated traffic.** The surgical suite shall be located and arranged to preclude unrelated traffic through the suite.

(B) **General operating room.** At least one operating room shall be provided and shall have a minimum clear floor area of 400 square feet exclusive of fixed and movable cabinets and shelves. The minimum clear dimension between fixed cabinets and built-in shelves shall be 20 feet. There shall be no direct access between operating rooms.

(C) **Operating rooms for cardiovascular, orthopedic, neurological, and other special surgical procedures** that require additional personnel and large equipment.

(i) When provided, these rooms shall have a minimum clear floor area of 600 square feet, with a minimum of 20 feet clear dimension exclusive of fixed or wall-mounted cabinets and built-in shelves.

(ii) An additional room shall be provided in the restricted area of the surgical suite, preferably adjoining this operating room, where extra corporeal pumps, supplies and accessories can be stored and serviced.

(iii) When complex orthopedic surgery and neurosurgery are performed, additional rooms shall be provided in the restricted area of the surgical suite, preferably adjoining the specialty operating rooms, for storage of equipment used during these procedures.

(D) **Preoperative patient holding areas or rooms.** In facilities with two or more operating rooms, a patient holding area or rooms shall be provided. The preoperative patient holding area may

be used for secondary recovery. The area shall meet the following requirements.

(i) Clear floor space for private preoperative holding room. The minimum clear floor space in a private preoperative holding room shall be 100 square feet exclusive of aisles and fixed and moveable cabinets and selves. A minimum of nine feet width shall be provided for the head wall.

(ii) Clear floor space for multiple-patient station preoperative holding area. In a multiple-patient station preoperative holding area, the clearance between the side of a gurney and a wall or partition shall be a minimum of three feet. The clearance between sides of gurneys shall be a minimum of six feet. The minimum distance at the foot of the gurney shall not be less than seven feet for single load area or room or ten feet for double load area or room. Four feet of the passage space at the foot of the gurney may be shared between two gurneys. The fixed and moveable cabinets and shelves shall not encroach upon the gurney clear floor space or area.

(iii) Control station. A control station and charting area shall be provided and arranged to permit staff visual observation of holding and preparation area.

(iv) Work counter. A work counter with hand washing fixture with hands-free operable controls shall be provided and located in the preparation area.

(v) Cubicle curtains. Cubicle curtains shall be provided at each station for patient privacy.

(vi) Hand washing fixtures. One hand washing fixture with hands-free operable controls shall be provided for every four preoperative holding beds or fraction thereof. Fixtures shall be uniformly distributed. One hand washing fixture with hands-free operable controls shall be provided within each single-bed preoperative holding room.

(E) Post-anesthesia care units.

(i) Post-anesthesia care units (PACU) requirements. PACUs for surgical patients shall contain a medication distribution station, nurse station with charting facilities, clinical sink provisions for bedpan cleaning, and storage space for stretchers, supplies, and equipment. The nurse station shall be arranged to permit the staff to have full visual control of the PACU area.

(ii) Patient station. At least one and a half patient stations per operating room shall be provided for post-anesthesia care or fraction thereof. At least two stations shall be provided when there is only one operating room.

(iii) Private recovery room clear floor area. The minimum clear floor space in a private recovery room shall be 130 square feet exclusive of aisles and fixed and moveable cabinets and selves. A minimum of 10 feet width shall be provided for the head wall. The room shall contain cabinets, work counter, and hand washing fixture with hands-free operable controls. The fixed and movable cabinets and shelves shall not encroach upon the gurney clear floor space or area.

(iv) Multiple-gurney recovery patient station area. In multiple-gurney recovery patient stations, the clearance between the side of gurney and a wall or partition shall be a minimum of five feet. The clearance between sides of gurneys shall be a minimum of six feet. The minimum distance at the foot of the gurney shall not be less than eight feet for single load area or room or twelve feet for double load area or room. Four feet of the passage space at the foot of the gurney may be shared between two gurneys. The multi-gurney recovery patient station shall contain cabinets, medication storage, and work counter. The

fixed and movable cabinets and shelves shall not encroach upon the gurney clear floor space or area.

(v) Cubicle curtains. Cubicle curtains shall be provided for patient privacy.

(vi) Doors. At least one door to the PACU room shall be within the surgical suite.

(vii) Staff toilets. Staff toilet facilities and a hand washing fixture with hands-free operable controls shall be located within or immediately adjacent to the PACU.

(viii) One hand washing fixture shall be provided for every four recovery beds or fraction thereof in open wards. Fixtures shall be uniformly distributed. One hand washing fixture shall be provided within each single-bed recovery room.

(F) Separation of recovery patients. Provisions shall be made for separating all patients subject to general anesthesia from those who did not receive general anesthesia. This requirement may be satisfied by providing separate recovery rooms, cubicles, secondary recovery rooms, or scheduling of procedures.

(G) Service areas. Services, except for the enclosed soiled workroom and the housekeeping room, may be shared with the obstetrical facilities if the LSRH's functional program reflects this concept. Service areas, when shared with delivery rooms, shall be designed to avoid the passing of patients or staff between the operating room and the delivery room areas.

(i) Control station. A control station located to permit visual surveillance of all traffic entering the surgical suite shall be provided.

(ii) Office. A supervisor's office or station shall be provided.

(iii) Scrub facilities. Two scrub stations shall be located in the restricted corridor within five feet of the entrance of each operating room. Two scrub stations may serve two operating rooms if the scrub stations are located adjacent to the entrance of both operating rooms. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel, medical equipment, or supply carts. Viewing panels shall be provided for observation of the surgical room interior. The scrub sinks shall be recessed out of the main traffic areas. The alcove shall be located within the restricted areas of the surgical suite. Scrub sinks shall not be located inside the sterile area.

(iv) Substerile facilities. Sterilizing facilities located conveniently to the operating rooms for immediate or emergency use with work counter shall be provided.

(v) Anesthesia workroom. The anesthesia workroom shall contain a work counter, sink with hands-free operable controls, and storage space for medical gas cylinders and other anesthesia equipment.

(vi) Medication station. Storage and distribution of medication may be done from a medicine preparation room, medicine alcove area, or from a self-contained medicine dispensing unit but must be under visual control of nursing staff. A work counter, hand washing fixture with hands-free operable controls, refrigerator, and double-locked storage for controlled substances shall be provided. Standard cup-sinks provided in many self-contained units are not acceptable for hand washing. The medication station may be shared with the clean work room.

(vii) General storage room. At least 50 square feet per operating room is required for general storage space. The minimum requirement for three operating rooms or less is 150 square feet.

This storage room is exclusive of soiled holding, sterile supplies, clean storage, drug storage, locker rooms, and storage alcoves.

(viii) Orthopedic surgery storage. Splints and traction equipment shall be stored in an enclosed storage room. Storage shall be outside the operating room but must be conveniently located.

(ix) Storage alcove. An alcove or alcoves located out of the direct line of traffic shall be provided for the storage of stretchers, portable X-ray equipment, fracture tables, warming devices, auxiliary lamps, etc.

(x) Surgical suite staff clothing change rooms. Appropriately sized areas shall be provided for male and female personnel working within the surgical suite. These areas shall contain lockers, showers, toilets, hand washing fixtures with hands-free operable controls, and space to change into scrub suits and boots. Separate changing rooms shall be provided for male and female staff. The shower and toilet room or rooms may be unisex. These areas shall be arranged to provide a traffic pattern so that personnel entering from outside the surgical suite can shower, change, and move directly into the restricted areas of the surgical suite.

(xi) Lounge. A lounge shall be provided in an LSRH with three or more operating rooms. The lounge shall permit staff use without leaving the surgical suite and may be accessed from the clothing changing rooms. The lounge shall not have direct access from outside the surgical suite. When the lounge is remote from the clothing change rooms, toilet facilities and a hand washing fixture with hands-free operable controls accessible from the lounge shall be provided.

(xii) Staff toilet facilities. Toilet facilities located in the surgical suite for exclusive staff use shall be provided and contain a hand washing fixture with hands-free operable controls. The toilet room may be accessible from a staff lounge, when provided.

(xiii) Dictation and report preparation area. This may be accessible from the lounge area.

(xiv) Cast room. When a cast room is provided, it shall be equipped with hand washing facilities, plaster sink, storage, and other provisions required for cast procedures. This room may be located in the emergency room.

(xv) Ice machines. An ice machine shall be provided for therapeutic purposes. A self-dispensing ice machine shall be provided for human consumption.

(xvi) Clean workroom or clean supply room. A clean workroom is required when clean materials are assembled within the surgical suite prior to use or following the decontamination cycle. It shall contain a work counter, a hand washing fixture with hands-free operable controls, storage facilities for clean supplies, and a space to package reusable items. The storage for sterile supplies must be in a separate room. When the room is used only for storage and holding as part of a system for distribution of clean and sterile supply materials, the work counter and hand washing fixture are not required.

(xvii) Sterile core. When a surgical suite contains a sterile core, it shall be free of any cross-traffic of staff and supplies from the soiled or decontaminated areas to the sterile or clean areas. The use of facilities outside the operating room for soiled or decontaminated processing, clean assembly and sterile processing shall be designed to move the flow of goods and personnel from dirty to clean without compromising universal precautions or aseptic techniques in both departments.

(xviii) Soiled workroom. The soiled workroom shall contain a clinical sink or equivalent flushing type fixture, work counter,

hand washing fixture with hands-free operable controls, waste receptacle, and linen receptacle. The clinical sink and work counter may be eliminated if the room is used only for temporary holding of soiled material and cleaning of equipment and instruments and sterilization is provided outside the surgical suite. Provisions shall be made for the disposal of liquid waste. The soiled workroom shall be provided for the exclusive use of the surgical suite, shall be located in the restricted area of the surgical suite, and shall not have direct connection with operating rooms, delivery rooms, or other sterile activity rooms.

(xix) Housekeeping room. A housekeeping room containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided for the exclusive use of the surgical suite and shall be directly accessible from the surgical suite.

(2) Details and finishes. Details and finishes shall comply with §511.162(d)(2) of this subchapter and this paragraph.

(A) Details.

(i) Ceiling height. Operating rooms shall have ceiling heights not less than nine feet.

(ii) Noise minimization. Recreation rooms, exercise rooms, equipment rooms, and similar spaces where impact noises may be generated shall not be located directly over operating suites, unless special provisions are made to minimize such noise.

(B) Finishes.

(i) Flooring. Flooring within operating rooms, soiled workrooms and sterile processing rooms shall be of the seamless type as required by §511.162(d)(2)(B)(iii)(III) of this subchapter.

(ii) Walls. Walls in operating rooms, special procedures rooms, and soiled workrooms shall comply with the requirements of §511.162(d)(2)(B)(iv)(II) of this subchapter.

(iii) Ceilings. Ceilings in operating rooms, isolation rooms, soiled workroom, and sterile processing rooms shall be monolithic as required by §511.162(d)(2)(B)(vi)(III) of this subchapter.

(3) Mechanical requirements. Mechanical requirements shall comply with §511.162(d)(3) of this subchapter and this paragraph.

(A) Air supply for the operating rooms shall be from ceiling outlets near the center of the work area to efficiently control air movement. At least two return air inlets located diagonally opposite from one another and near floor level shall be provided. Design should consider turbulence and other factors of air movement to minimize airborne particulate matter. Where extraordinary procedures require special designs, the installation shall be reviewed on a case-by-case basis.

(B) Smoke removal systems shall be provided in accordance with §511.162(d)(3)(D)(iv)(II) of this subchapter.

(C) The ventilation system for anesthesia storage rooms and medical gases storage shall conform to the requirements of Chapter 5, NFPA 99 §5.1.3.3.3.

(D) Each operating room, PACU, and recovery room shall be provided with conveniently mounted temperature and humidity indicating devices.

(4) Piping systems and plumbing fixtures. Piping systems and plumbing fixtures shall comply with §511.162(d)(4) of this subchapter and this paragraph.

(A) General.

(i) Drainage and waste piping shall not be installed above or below ceilings in operating rooms, and sterile processing rooms unless precautions are taken to protect the space below from leakage and condensation from necessary overhead piping. Any required secondary protection shall be labeled, "code required secondary drain system" every 20 feet in a highly visible print or label.

(ii) Floor drains shall not be installed in operating rooms. Flushing rim type floor drains may be installed in cystoscopic operating rooms. If a floor drain is installed in cystoscopy, it shall contain a nonsplash, horizontal-flow flushing bowl beneath the drain plate.

(iii) Sinks used for the disposal of plaster of paris shall have plaster trap.

(B) Medical gas systems. Medical gas systems and outlets that comply with §511.162(d)(4)(A)(iii) and Table 6 of §511.169(f) of this subchapter shall be provided.

(5) Electrical requirements. Electrical requirements shall comply with §511.162(d)(5) of this subchapter and this paragraph.

(A) General.

(i) X-ray film illuminators for handling at least four films simultaneously shall be provided in each operating room. When the entire surgical suite is provided with digital imaging system capabilities, at least two X-ray film illuminator viewers shall be provided. The film illuminators shall be mounted within the central area of the suite.

(ii) Each operating room shall have at least eight duplex electrical hospital grade receptacles of which three shall be located convenient to the head of the procedure table. Each PACU recovery station shall have at least seven receptacles at the head of each patient station.

(iii) Special grounding system for critical care areas such as operating rooms, and special procedure rooms where patients are subjected to invasive procedures and connected to line-operated, electromedical devices shall comply with NFPA 99 Chapter 9 and NFPA 70 Article 517.

(iv) Operating rooms and special procedure rooms shall have general lighting in addition to that provided by special lighting units at the surgical tables. Each fixed special lighting unit at the operating or delivery table shall be connected to an independent circuit powered by the critical branch of the essential electrical system. Portable units may share circuits. At least one general lighting fixture shall be served from a normal branch panel.

(v) Operating rooms shall be provided with one or more battery-powered emergency lighting units as required by NFPA 99 §13.4.1.2.6(E).

(vi) Operating rooms shall be provided with at least one receptacle powered from a normal power panel. Receptacle shall be labeled, "Normal power receptacle, use only in the event of loss of critical system."

(B) Nurses calling system. The nurse call shall comply with §511.162(d)(5)(L) and Table 7 of §511.169(g) of this subchapter.

(y) Labor, Delivery, and Recovery (LDR).

(1) When provided, each LDR room shall have controlled access and shall be located so that a patient may be transported to the caesarean section operating room without the need to pass through other functional areas.

(2) Each LDR room shall be designed for single occupancy and have a minimum clear floor area of 200 square feet exclusive of the infant resuscitation area, built-in shelves or cabinets, alcove, vestibule or other adjoining rooms. The minimum clear room dimension shall not be less than 11 feet.

(3) A hand washing fixture with hands-free operable controls shall be provided in each LDR room.

(4) Each LDR shall have direct access to and exclusive use of a bathroom with a shower, or tub with shower, hand washing fixture with hands-free operable controls and a toilet.

§511.165. *Building with Multiple Occupancies.*

(a) Multiple hospitals located within one building.

(1) Identifiable location. Each hospital shall conform with all the requirements contained in Chapter 18 of the National Fire Protection Association 101, Life Safety Code, 2012 edition (NFPA 101), relating to New Health Care Occupancies.

(A) The guest hospital shall be in one separately contiguous location.

(B) In no case may a person leave the guest hospital, traverse the host hospital, and then reenter the guest hospital to access the remaining portion of the guest hospital.

(C) A connecting stair within the host hospital may be used to connect the vertical contiguous areas of the guest hospital.

(D) A guest hospital may not occupy two or more non-contiguous areas of a host hospital that contain intervening space of the host hospital even if on the same floor.

(E) Construction of the host hospital building shall conform to the requirements of NFPA 101 Chapter 18, and the building shall be fully sprinklered.

(2) Separate facilities. Each limited services rural hospital (LSRH) shall provide the following separate facilities:

(A) a nursing unit in accordance with the requirements of §511.163(q) of this subchapter (relating to Spatial Requirements);

(B) an administration office with an adjacent waiting room or waiting area;

(C) a medical records room that conforms with the requirements of §511.163(m) of this subchapter;

(D) a pharmacy suite that complies with §511.163(s) of this subchapter;

(E) employee locker facilities that comply with requirements of §511.163(f)(1) of this subchapter;

(F) a housekeeping room that complies with the requirements of §511.162(d)(2)(A)(xxviii) of this subchapter (relating to Construction Requirements);

(G) emergency facilities as required by §511.163(e)(1)(A) of this subchapter;

(H) imaging and other diagnostic services and facilities, in accordance with §511.46 of this chapter (relating to Radiologic Services) and §511.163(j) of this subchapter respectively;

(I) laboratory services and a laboratory suite that comply with §511.163(k) of this subchapter, and §511.45 of this chapter (relating to Laboratory Services) of this chapter respectively;

(J) where surgical services are provided, a surgical suite in accordance with §511.163(x) of this subchapter;

(K) dietary services and dietary suite, including staff dining facilities, which comply with §511.53 of this chapter (relating to Dietary Services) and §511.163(d) of this subchapter respectively;

(L) external signage at the building entrance that identifies each hospital; and

(M) internal signage that provides directions to each hospital.

(3) Means of egress. Means of egress from the host or guest hospital shall not be through a psychiatric hospital or a crisis stabilization unit or other area subject to locking. Means of egress may traverse through a hospital that conforms with the requirements of §511.161 of this subchapter (relating to Requirements for Buildings in Which Existing Licensed Hospitals are Located) or §511.162 of this subchapter. Stairs must have guardrails from the floor of the guest hospital to the level of exit discharge in accordance with NFPA 101 §7.2.2.4.5.

(4) Additional services and facilities. Additional services and facilities when required in each licensed hospital may be provided by contractual agreement with the other hospital when the services and facilities comply with the specific requirements of Subchapter C of this chapter (relating to Operational Requirements) and §511.163 of this subchapter. Some services may be provided by contractual agreement with a commercial contractor; however, the following minimal facilities shall be provided on site by the host hospital and be located in one of the hospitals. If the host hospital fails to provide the facilities and services, the guest hospital shall describe to the Texas Health and Human Services Commission (HHSC) how it plans to provide services:

(A) cart cleaning and sanitizing services and facilities that comply with §511.163(b) of this subchapter;

(B) general storage services and facilities that comply with §511.163(h) of this subchapter;

(C) housekeeping rooms as required in §511.162(d)(2)(A)(xxviii) of this subchapter;

(D) parking facilities, in accordance with §511.162(c)(2) of this subchapter;

(E) physical therapy, occupational therapy services and facilities, or both in accordance with §511.57 of this chapter (relating to Therapy Services), and §511.163(u) of this subchapter respectively;

(F) patient activity facilities shall comply with the requirements for the specific service in accordance with §511.163 of this subchapter as follows: mental health and chemical dependency nursing units §511.163(n)(1) and rehabilitation therapy suite §511.163(u)(1)(A)(i) and (ii) of this subchapter;

(G) respiratory care services and respiratory therapy suite that comply with §511.70 of this chapter (relating to Respiratory Care Services) and §511.163(v) of this subchapter respectively;

(H) body-holding room that complies with §511.163(o)(1)(D) of this subchapter;

(I) central sterile supply that complies with §511.163(c) of this subchapter respectively;

(J) waste and waste disposal services and waste processing and storage units shall comply with §511.71 of this chapter (relating to Waste and Waste Disposal); and

(K) emergency water storage requirement in Texas Administrative Code Title 25 §133.162(d)(4)(A)(i)(VIII) shall be required for the LSRH and the hospital and be located in either the LSRH or other hospital.

(5) Building systems and equipment.

(A) The following systems shall be provided separately in each hospital at a 24-hour staffed location.

(i) Nurses calling systems shall be provided separately in each hospital in accordance with §511.162(d)(5)(L) and Table 7 in §511.169(g) of this subchapter (relating to Tables).

(ii) Medical gas alarms shall be provided in each hospital.

(iii) Fire alarm annunciator panels shall be provided in each hospital so that each hospital can monitor the other.

(iv) An emergency generator annunciator panel shall be provided in each hospital.

(B) Where applicable, the following systems may serve more than one hospital provided the systems meet the new construction requirements of §511.162 of this subchapter.

(i) Air conditioning, heating, and ventilating systems.

(ii) Drainage systems.

(iii) Elevators.

(iv) Fire sprinkler systems. The guest hospital may not be constructed in a host hospital when the host hospital is not fully sprinklered. The host and guest hospitals shall be fully sprinklered.

(v) Medical piping systems.

(vi) Stand pipe systems.

(vii) Steam systems.

(viii) Water supply systems, hot and cold (including emergency water storage).

(ix) Electrical service and equipment.

(I) Where applicable, the building electrical service, lighting, essential electrical system, and fire alarm system may be a part of or extension of those in the existing hospital, provided the existing systems meet these requirements. The host hospital shall be responsible for maintenance, testing and upkeep of the essential electrical system. Power and lighting distribution panels shall be within each hospital served and comply with the requirements of §511.162(d)(5)(E) of this subchapter. Electrical installation details shall conform with all requirements contained in §511.162(d)(5)(A) of this subchapter.

(II) When the existing essential electrical system is nonconforming, the following options are available:

(-a-) a separate conforming essential electrical system shall be provided in the guest hospital; or

(-b-) separate transfer switches connected to the existing on-site generator(s) shall be provided when adequate capacity is available and the host hospital existing nonconforming system shall be corrected. Corrections shall be made in accordance with a plan of correction approved by HHSC.

(b) LSRHs located in buildings with licensed health care facilities other than hospitals.

(1) Before an LSRH is licensed in a building containing other licensed health care facilities, all the requirements of this chapter and the following requirements shall be met.

(A) Construction of the building shall conform to the requirements of NFPA 101 Chapter 18 and the building shall be fully sprinklered.

(B) The LSRH shall be in one identifiable contiguous location and shall be separated (vertically and horizontally) with two-hour fire rated noncombustible construction from the other licensed health care facility and comply with the requirements of this chapter.

(i) In no case may a person leave the LSRH, traverse other licensed health care facilities, and then reenter the LSRH to access the remaining portion of the hospital.

(ii) A connecting stair and elevator within the building shall be provided to connect the vertical contiguous areas of the LSRH.

(iii) An LSRH may not occupy two or more noncontiguous areas of other licensed health care facilities that contain intervening space of the other licensed health care facilities even if on the same floor.

(iv) Access to the LSRH shall be directly from a main lobby or an elevator lobby, if on an upper floor. The required means of egress from the LSRH may be through the other licensed health care facility except not through a psychiatric hospital or a crisis stabilization unit or other area subject to locking.

(I) Each licensed facility shall be identified with external signage at the building entrance.

(II) Internal signage shall provide direction to the LSRH.

(v) The LSRH shall have services and facilities separate from the other licensed health care facility. The required facilities shall be located within the proposed LSRH proper.

(vi) Common use of facilities using time-sharing concepts may be permitted on a case-by-case basis when the other health care facilities comply with the requirements contained in NFPA 101 Chapter 18 and §511.163 of this subchapter, and provided this chapter and the other health care facility licensing regulations allow.

(C) The equipment and systems required in each new LSRH may be provided exclusively for the LSRH or by contractual agreement with a licensed health care facility. The equipment and systems shall comply with §511.162 of this subchapter.

(i) The following equipment and systems shall be provided for the exclusive use of the LSRH, except where noted otherwise.

(I) Where the LSRH is served by the building's normal electrical system, the breaker serving the LSRH shall originate in the main switchboard and shall be labeled, "Hospital Service - Contact Hospital Representative Prior to Opening Breaker".

(II) The LSRH distribution panel board shall be within the LSRH.

(III) An electrical room for the distribution of type I essential electrical system shall be provided separate from the building electrical room. The LSRH staff shall have access at all times to the essential electrical system room and the building's electrical room. The LSRH shall be responsible for maintenance, testing, and upkeep of the essential electrical system. When the existing essential electrical system owned and operated by the other licensed health care facility is nonconforming, the following options are available:

(-a-) a separate conforming essential electrical system shall be provided in the new LSRH; or

(-b-) separate transfer switches connected to the existing on-site generator shall be provided when adequate capacity is available and the other health care facility existing nonconforming

system shall be corrected. Corrections shall be made in accordance with a plan of correction approved by HHSC.

(IV) An emergency generator may be shared when adequate capacity is available. Separate transfer switches shall be provided to serve the LSRH and other licensed health care facilities. The LSRH shall be the owner of the generator, have access to the generator at all times, and shall be responsible for maintenance, testing and upkeep of the generator.

(V) The LSRH shall meet the emergency water storage requirement under 25 TAC §133.162(d)(4)(A)(i)(VIII) and the storage shall be located within the LSRH.

(VI) When the other licensed health care facilities have a fire alarm control center or a main building alarm panel at the main lobby entrance, the LSRH shall have an annunciator panel at a 24-hour staffed location. The LSRH staff shall have access at all times to the main building fire alarm system panels and shall be responsible for verifying the maintenance and upkeep of such system.

(VII) Fireman's test valve for the fire sprinkler system.

(VIII) Air conditioning, heating, and ventilating systems.

(IX) The medical gas supply sources may be shared provided the LSRH is owner of the medical gas system source and is responsible for maintenance, testing and upkeep of the supply sources. The LSRH and other occupancies shall have separate main supply shutoff valves. The LSRH shall be provided with an alarm panel within the LSRH that monitors the medical gas system supply source serving the other licensed health care facilities.

(X) Medical vacuum and medical air.

(XI) Nurses calling systems.

(ii) Where applicable, the following systems may be a part or extension of those in the existing licensed health care facility, provided the existing systems meet the requirements of this chapter for new construction.

(I) Drainage systems.

(II) The LSRH shall be served by the number and size of elevators cabs in accordance with §511.164 of this subchapter (relating to Elevators, Escalators, and Conveyors). The elevators cab lighting, control, communication, and signal systems shall be connected to the life safety panel of the essential electrical system.

(III) The new LSRH may not be constructed in the other health care facility when the other health care facility is not fully sprinklered. The new LSRH and the other health care facility shall be fully sprinklered.

(IV) Stand pipe systems.

(V) The LSRH is responsible for providing all backup systems (such as boilers) as required in this chapter.

(VI) Domestic water supply systems, hot and cold.

(VII) Mechanical chilled and hot water systems.

(2) When an LSRH and a psychiatric hospital share one building, the building systems and equipment may be shared in accordance with subsection (a)(5)(B) of this section, or be provided separately.

(c) LSRHs in buildings with non-health care occupancies.

(1) General. Before an LSRH is licensed in a building also containing occupancies other than health care occupancies, all requirements of this chapter and the following requirements shall be met.

(A) Construction of the building shall conform to the requirements of NFPA 101 Chapter 18, and the building shall be fully sprinklered.

(B) The LSRH shall be in one identifiable contiguous location and shall be separated (vertically and horizontally) with two-hour fire rated noncombustible construction from the other occupancies.

(i) In no case may a person leave the LSRH, traverse other occupancies, and then reenter the LSRH to access the remaining portion of the LSRH.

(ii) A connecting stair and elevator within the building shall be provided to connect the vertical contiguous areas of the LSRH.

(iii) An LSRH may not occupy two or more noncontiguous areas of other occupancies that contain intervening space of the other occupancies even if on the same floor.

(C) Access to the LSRH shall be through a dedicated LSRH lobby or from the building's main lobby. The building's main lobby shall be part of the LSRH and shall comply with the requirements of §511.162 of this subchapter.

(i) External signage shall be provided at the building entrance that identifies the LSRH.

(ii) Internal signage shall be provided to give directions to the LSRH.

(D) The required means of egress from the LSRH shall be independent of and shall not traverse through the other occupancies.

(E) Stairs shall have guardrails and handrails from the floor of the LSRH to the level of exit discharge in accordance with NFPA 101 §7.2.2.4.5.

(2) Services and facilities. Services and facilities shall be provided exclusively for the LSRH in accordance with Subchapters C and F of this chapter (relating to Operational Requirements and Fire Prevention and Safety respectively) and this subchapter. Required services and facilities shall not be shared with the other occupancies except as noted in paragraph (3) of this subsection.

(3) Building equipment and facilities. The equipment and systems shall comply with §511.162 of this subchapter.

(A) The following equipment and systems shall be provided for the exclusive use of the LSRH except where noted otherwise.

(i) An electrical room for the distribution of type I essential electrical system shall be provided separate from the building electrical room. LSRH staff shall have access at all times to the essential electrical system room and the building's electrical room or rooms. The LSRH is responsible for maintenance, testing and upkeep of the essential electrical system.

(ii) An emergency generator may be shared when adequate capacity is available. Separate transfer switches shall be provided to serve the LSRH and other building occupancies. The LSRH shall be the owner of the generator, have access to the generator at all times, and shall be responsible for maintenance, testing and upkeep of the generator.

(iii) Emergency water storage located within the LSRH.

(iv) When the building has a fire alarm control center or a main building alarm panel at the main lobby entrance, the LSRH shall have an annunciator panel at a 24-hour staffed location. The LSRH staff shall have access at all times to the main building fire alarm system panels and shall be responsible for verifying the maintenance and upkeep of such system.

(v) Fireman's test valve for the fire sprinkler system.

(vi) The medical gas supply sources may be shared provided the LSRH is owner of the medical gas system supply source and is responsible for maintenance, testing, and upkeep of the supply sources. The LSRH and other occupancies shall have separate main supply shutoff valves. The LSRH shall be provided with an alarm panel within the LSRH that monitors the medical gas system serving the other occupancies.

(vii) Medical vacuum and medical air.

(viii) Air handling units of other occupancies may not be used for the LSRH. The LSRH air handling units may share the supply source for other occupancies but shall not return air from the other occupancies back to the air handling unit.

(ix) Nurses calling systems.

(B) Where applicable, the following systems may be a part or extension of those in the existing building occupancies provided the existing systems meet the requirements of this chapter for new construction.

(i) Where the LSRH is served by the building's normal electrical system, the breaker serving the LSRH shall originate in the main switchboard and shall be labeled, "Hospital Service - Contact Hospital Representative Prior to Opening Breaker."

(ii) The LSRH's distribution panelboard shall be within the LSRH.

(iii) Drainage systems.

(iv) The LSRH shall be served by the number and size of elevators cabs in accordance with §511.164 of this subchapter. The elevators cab lighting, control, communication, and signal systems shall be connected to the life safety panel of the essential electrical system.

(v) The LSRH may not be constructed in the other type of building occupancies when the other types of occupancies are not fully sprinklered. The LSRH and the other occupancies shall be fully sprinklered.

(vi) Stand pipe systems.

(vii) Fire pump, where applicable; LSRH staff shall have access at all times to the location of the fire pump to verify compliance and maintenance.

(viii) The LSRH is responsible for providing all backup systems (such as boilers) that are required in this chapter.

(ix) Domestic water supply systems, hot and cold.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## CHAPTER 745. LICENSING

The Texas Health and Human Services Commission (HHSC) adopts new §§745.8301, 745.8303, 745.8305, 745.8307, 745.8309, 745.8311, 745.8313, 745.8315, 745.8317, 745.8319, and 745.8321; and the repeal of §§745.8301, 745.8303, 745.8305, 745.8307, 745.8309, 745.8311, 745.8313, 745.8315, 745.8317, and 745.8319, in Title 26, Texas Administrative Code (TAC), Chapter 745, Licensing.

New §§745.8301, 745.8303, 745.8305, 745.8307, 745.8309, 745.8311, 745.8313, 745.8317, 745.8319, and 745.8321; and the repeal of §§745.8301, 745.8303, 745.8305, 745.8307, 745.8309, 745.8311, 745.8313, 745.8315, 745.8317, and 745.8319, are adopted without changes to the proposed text, as published in the May 26, 2023, issue of the *Texas Register* (48 TexReg 2661). These rules will not be republished.

New §745.8315 is adopted with changes to the proposed text as published in the May 26, 2023, issue of the *Texas Register* (48 TexReg 2661). This rule will be republished.

### BACKGROUND AND JUSTIFICATION

The new sections and repeals are necessary to align 26 TAC Chapter 745, Subchapter J, with 42 United States Code §671(a)(10) so that HHSC Child Care Regulation (CCR) may only approve a waiver request for a kinship foster home.

The new sections and repeals are also necessary to align 26 TAC Chapter 745, Subchapter J, with current practices and update the subchapter as needed for clarity.

### COMMENTS

The 31-day formal comment period ended June 26, 2023. During this period, HHSC received six comments regarding the proposed rules from three commenters, which included the Texas Alliance of Child and Family Services, a child-placing agency, and a member of the public. A summary of comments relating to the rules and HHSC's responses follows.

Comment: Regarding the rules in general, one commenter referenced rules in Chapters 748 and 749 that provide certain exemptions to minimum standard requirements, indicating that those exemptions are oftentimes confused with the waivers and variances under Chapter 745.

Response: HHSC disagrees with the comment. The rules in Chapter 745, Subchapter J, allow CCR to approve a waiver or variance if the operation or foster home cannot comply with a minimum standard. The rules in Chapters 748 and 749 allow for the operation to approve exemptions without submitting a request for CCR's review or approval. Some of these exemptions were created by state legislation to (1) provide flexibility with training requirements for certain persons, and (2) recognize a medical reason and a reason of conscience for immunization requirements.

Comment: Regarding the rules in general, one commenter stated that it appears that variances are used for documentation

purposes and as a means for agencies to avoid citations, rather than first considering and assessing the risk involved to varying a standard.

Response: HHSC disagrees with the comment. New §745.8313, which incorporates relevant content from repealed §745.8307, requires CCR to consider risk to children when deciding whether to grant a variance; therefore, CCR assesses the potential risk to children involved in varying a standard before determining whether a variance should be granted.

Comment: Regarding §745.8303, two commenters recommended adding a list of categorical exclusions or a chart that identifies which minimum standards are required by state or federal law. One of the two commenters also indicated that this information could be provided in "sub-regulatory guidance."

Response: HHSC disagrees in part with the comment. It would be difficult and impractical to include in rule a list or chart identifying the minimum standards required by state or federal law because state and federal laws requiring certain minimum standards are in flux, which would make updates to rule more frequent if the categorical exclusions or chart existed there. Therefore, HHSC agrees with the suggestion to provide information in "sub-regulatory guidance," which may be interpreted to include a policy update in CCR's publicly available handbook or publishing information on a web page for providers to view. In doing this, information on state and federal requirements can be easily updated in time with any changes that are made to those requirements.

Comment: Regarding §745.8313, one commenter noted that heightened monitoring status is listed as one of CCR's considerations prior to deciding on whether to grant or deny a waiver or variance. The commenter asked that heightened monitoring status be considered as it relates to the heightened monitoring plan and not as a "global mark" against the operation.

Response: HHSC disagrees with the comment. CCR considers compliance history when evaluating a waiver or variance request and heightened monitoring is a part of that compliance history, which must be considered prior to CCR granting a waiver or variance. Doing so allows CCR to have a more comprehensive evaluation of any waiver or variance request, which could reduce risk to children.

Comment: Regarding §745.8315, one commenter recommended that the rule language be clarified for better understanding, especially with regard to referencing 26 TAC §749.2551(b).

Response: HHSC agrees with the comment. HHSC revised the rule to improve readability and provide clarity on how 26 TAC §749.2551(b) relates to the rule.

## SUBCHAPTER J. WAIVERS AND VARIANCES FOR MINIMUM STANDARDS

**26 TAC §§745.8301, 745.8303, 745.8305, 745.8307, 745.8309, 745.8311, 745.8313, 745.8315, 745.8317, 745.8319**

### STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the GRO and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective

Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 18, 2023.

TRD-202303457

Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 438-3269



**26 TAC §§745.8301, 745.8303, 745.8305, 745.8307, 745.8309, 745.8311, 745.8313, 745.8315, 745.8317, 745.8319, 745.8321**

#### STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the GRO and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42.

*§745.8315. What additional factors does Licensing consider when deciding whether to grant a waiver or variance for a foster home?*

When the request is associated with a foster home, we will consider:

(1) The compliance history of the foster home.

(2) If the request is to increase the maximum number of foster children a foster home may care for, whether you may use the exception criteria under §749.2551(b) of this title (relating to What is the maximum number of children a foster family home may care for?); and

(3) Any limitations in state or federal law, including that:

(A) We only may issue a waiver if the home is a kinship foster home;

(B) We may not approve a request that would result in a foster home's total capacity exceeding eight foster children; and

(C) We may not approve a request that would result in a foster home's foster care capacity exceeding six foster children unless:

(i) You are requesting a variance for a reason in §749.2551(b)(1) of this title; and

(ii) You are not able to use the exception criteria under §749.2551(b) of this title to increase the foster home's foster care capacity.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Karen Ray

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Health and Human Services Commission

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## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 3. TAX ADMINISTRATION

##### SUBCHAPTER BB. BATTERY SALES FEE

###### 34 TAC §3.711

The Comptroller of Public Accounts adopts amendments to §3.711, concerning battery sales fee collection and reporting requirements, without changes to the proposed text as published in the August 11, 2023, issue of the *Texas Register* (48 TexReg 4379). The rule will not be republished. The comptroller amends this section to implement Senate Bill 477, 87th Legislature, 2021, which requires marketplace providers to collect the applicable fees related to the sale of lead-acid batteries and to improve readability throughout the section.

The comptroller amends subsection (a) to add paragraphs (3), (4) and (5) to define the terms "marketplace," "marketplace provider," and "marketplace seller," respectively, as those terms are defined in Tax Code, §151.0242(a) but limits the terms to the sale of lead-acid batteries. The comptroller renumbers the subsequent paragraph.

The comptroller amends the title of subsection (b) to reflect that the subsection applies to the collection of the battery sales fee and not the remittance of the fee, which is addressed in subsection (e). The comptroller amends paragraph (1) by adding that, effective July 1, 2022, marketplace providers selling lead-acid batteries are required to collect the battery sales fee. The comptroller also amends paragraph (1) to require the collection of the battery sales fee only on the sale of batteries not for resale, as required under Health and Safety Code, §361.138. The comptroller reorganizes the fee information from paragraph (1) into subparagraphs (A), (B) and (C). The comptroller amends paragraph (2) to add marketplace provider to the provision that allows the comptroller to collect the fee directly from the purchaser in instances where a dealer fails to collect the fee. The comptroller amends paragraph (5) to prohibit a marketplace provider from advertising that a refund is available for any portion of the fee.

The comptroller adds the term marketplace provider to the provisions in subsection (c)(1) and (2), and in subsection (d) to require marketplace providers to follow the same reporting requirements that dealers must follow.

The comptroller amends subsection (e) regarding the remittance of the fee to remove the term "person" and instead use the term "dealer or marketplace provider" in paragraph (1) and to add the term "marketplace provider" in paragraph (2).

The comptroller amends subsection (f) to allow a "marketplace provider" who collects the battery sales fee to retain the applicable discount on each fee collected.

The comptroller amends subsection (g) to remove the term "person" and include the terms "dealer" and "marketplace provider" to allow the comptroller or an authorized representative to inspect the records or equipment of a dealer or marketplace provider.

The comptroller amends subsection (h)(7) to apply the battery sales fee exemptions to certain sales made by a marketplace provider.

The comptroller amends subsection (j) to remove the term "person" and instead use the terms "dealer" and "marketplace provider" to assess the applicable penalties to both for failure to file a battery sales fee report in a timely manner.

The comptroller did not receive any comments regarding adoption of the amendment.

The comptroller adopts the amendments under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture) and §111.0022 (Application to Other Laws Administered by Comptroller), which provide the comptroller with authority to prescribe, adopt, and enforce rules relating to the administration and enforcement provisions of Tax Code, Title 2, and taxes, fees, or other charges which the comptroller administers under other law.

The amendments to this section implement Health & Safety Code, §361.138 (Fee on the sale of batteries).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 15, 2023.

TRD-202303441

Jenny Burleson

Director, Tax Policy Division

Comptroller of Public Accounts

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Proposal publication date: August 11, 2023

For further information, please call: (512) 475-2220



## PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

### CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS

#### SUBCHAPTER B. LONG-TERM CARE, DISABILITY AND LIFE INSURANCE

##### 34 TAC §§41.15 - 41.20

The Board of Trustees of the Teacher Retirement System of Texas (TRS) adopts the repeal of rules §§41.15 - 41.20 under Subchapter B (relating to Long-Term Care, Disability, and Life Insurance) of Chapter 41 in Part 3 of Title 34 of the Texas Administrative Code. These repeals are adopted without changes

to the proposed repeals as published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3895). The repeals will not be republished.

#### REASONED JUSTIFICATION

TRS adopts the repeal of Subchapter B of Chapter 41, which contains six existing rules, in order to streamline and clarify Chapter 41 of TRS rules (relating to Health Care and Insurance Programs) by eliminating obsolete administrative rules. Additionally, repealing the six rules under Subchapter B will allow TRS to use these rule numbers for future rulemaking relating to Subchapter A of Chapter 41 (relating to Retiree Health Care Benefits (TRS-Care)). The six existing rules that TRS proposes to repeal are not currently in use, and TRS recommended their repeal in its four-year rule review, which was adopted on August 12, 2022. Their repeal will have no effect on TRS health plans or its participants.

#### COMMENTS

No comments on the proposed repeals were received.

#### STATUTORY AUTHORITY

TRS adopts the repeal of these rules under the authority of Insurance Code §1576.006, which provides that board of trustees may adopt rules as necessary to administer Chapter 1576 of the Insurance Code; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

#### CROSS-REFERENCE TO STATUTE

The repealed rules affect the following statutes: Insurance Code §1576.001 through Insurance Code §1576.013, which relates to TRS provided Group Long-Term Care Insurance for Public School Employees.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 15, 2023.

TRD-202303454

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Effective date: October 5, 2023

Proposal publication date: July 14, 2023

For further information, please call: (512) 542-3528



## SUBCHAPTER C. TEXAS SCHOOL EMPLOYEES GROUP HEALTH (TRS-ACTIVECARE)

### 34 TAC §41.53

The Teacher Retirement System of Texas (TRS) adopts new §41.53, relating to Special Transitional Plan, under Subchapter C (relating to Texas School Employees Group Health (TRS-ActiveCare)) under Chapter 41 in Part 3 of Title 34 of the Texas Administrative Code without changes to the proposed text as published in the August 11, 2023, issue of the *Texas Register* (48 TexReg 4381). The rule will not be republished.

## REASONED JUSTIFICATION

TRS-ActiveCare's primary health plan operates on a plan year that begins on September 1 and ends on the following August 31. In order to elect to participate in that plan, a participating entity must provide notice by December 31 of the year immediately preceding the next September 1 as of which it intends to enter the plan. See Insurance Code §1579.155 and corresponding TRS Rule 41.30. This creates difficulties for eligible participating entities to transition into TRS-ActiveCare when those entities currently offer a health plan that operates on a plan year that is different. Such entities may find it difficult or too costly to terminate their own plans in the middle of their plan year to transition into TRS-ActiveCare.

New §41.53, relating to Special Transitional Plan, exercises the Board's authority to create new plans under TRS-ActiveCare by creating a "Special Transitional Plan" that will provide an option to facilitate these entities' transition into TRS-ActiveCare. It will also allow such participating entities to provide notice by December 31 to enter TRS-ActiveCare's traditional plan as of the following September 1. In the interim, the participating entity will participate in the Special Transitional Plan.

## COMMENTS

No comments on the proposed new rule were received.

## STATUTORY AUTHORITY

This new §41.53 is adopted under the authority of Chapter 1579, Insurance Code, which establishes the Texas School Employees Uniform Group Health Coverage (TRS-ActiveCare); Insurance Code §1579.052, which allows the trustee to adopt rules relating

to, and to administer, TRS-ActiveCare as considered necessary by the trustee and to take the actions it considers necessary to devise, implement, and administer TRS-ActiveCare; Insurance Code §1579.101, which allows the trustee by rule to establish plans of group coverages for employees participating in TRS-ActiveCare and their dependents; Chapter 825, Texas Government Code, which governs the administration of TRS; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

## CROSS-REFERENCE TO STATUTE

The adopted rule affects Insurance Code §1579.155, concerning Program Participation: Election.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-202303452

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

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For further information, please call: (512) 542-3528

