

Texas Hospital Association

Comparative Analysis of Key Changes to the Hospital Licensing Rules

(Final adopted rules published in the June 15, 2007, Texas Register)

(NOTE: All Chapter 133 references are to Vol. 25, Texas Administrative Code. Cites within [brackets] indicate language is located in the section being explained. "See" cites in (parentheses) indicate the language is located in a different section than the one under which the reference is discussed. Some information is underlined for added emphasis.)

Sec. 133.2 Definitions.

- "Advance directive" definition revised and moved to the section entitled "Patient Rights." (See §133.42(a)(1)(C)(ii))
- "Advanced practice nurse" definition added. [§133.2(3)]
- "Available" definition added. This clarifies the circumstances under which certain personnel must be physically present and ready to provide care in an emergency. [§133.2(6)]
- "Community-wide plan" definition added. The definition addresses agreements among hospitals, local law enforcement and sexual assault programs to furnish emergency medical services and evidence collection to sexual assault survivors on a community-wide basis. [§133.2(8)]
- "Contaminated linen" definition moved to the subsection of the "Hospital Functions and Services" section entitled "Linen and laundry services." (See §133.41(i)(1))
- "Designated provider" definition moved to the section entitled "Hospital Patient Transfer Policy." (See §133.44(a)(1))
- "Fast-track projects" definition removed from definitions section.
- "Illegal conduct" definition moved to the section entitled "Abuse and Neglect Issues." (See §133.47(c)(1)(B))
- "Legally reproduced form" definition moved to the subsection of the "Hospital Functions and Services" section entitled "Medical record services." (See §133.41(j)(8))
- "Licensed vocational nurse" definition expanded to include an LVN with licensure from a compact state. [§133.2(25)]
- "Mandated provider" definition moved to the section entitled "Hospital Patient Transfer Policy." (See §133.44(a)(2))
- "Medical error" definition moved to the section entitled "Patient Safety Program." (See §133.48(1)(A))
- "Mobile unit" definition moved to the section entitled "Mobile, Transportable, and Relocatable Units." (See §133.166(a)(1))
- "Niche hospital" definition added. The definition tracks language from Senate Bill 872 (passed in 2005). [§133.2(30)]
- "Outpatient" and "Outpatient services" definitions revised to include those who require continued observation up to 48 hours. [§133.2(30), (31)]

- “Practitioner” definition revised to require practice in a manner consistent with their practice act. When read in conjunction with the numerous references to “practitioner” in the revised rules, this rule change clarifies that practitioners must function within the scope of their practice act. [*§133.2(40)*]
- “Premises” definition clarified. Clarifications relate to: integration of the medical staff for each hospital location included under a single license; requirement of a single chief medical officer and chief executive officer for all hospital locations under the license; requirement of a staffed nursing unit for each hospital inpatient unit (instead of for each building, as required in the previous rules); and a requirement that each hospital included in a license meet applicable emergency services requirements. [*§133.2(41)*]
- “Quality improvement” definition added. [*§133.2(44)*]
- “Registered nurse” definition expanded to include an RN with licensure from a compact state. [*§133.2(45)*]
- “Relocatable unit” definition moved to the section entitled “Mobile, Transportable, and Relocatable Units.” (See §133.166(a)(2))
- “Reportable event” definition moved to the section entitled “Patient Safety Program.” (See §133.48(1)(B))
- “Root cause analysis” definition moved to the section entitled “Patient Safety Program.” (See §133.48(1)(C))
- “Transportable unit” definition moved to the section entitled “Mobile, Transportable, and Relocatable Units.” (See §133.166(a)(3))
- “Unethical conduct” definition moved to the section entitled “Abuse and Neglect Issues.” (See §133.47(c)(1)(D))
- Although the definitions for general hospitals and special hospitals remain unchanged, the rules contain new emergency service requirements for general and special hospitals. (See, e.g., §133.41(e)). The term “special hospital” should not be confused with the term “specialty hospital.” A “special hospital” is a hospital that does not provide surgical or obstetrical services. A “specialty hospital” is a term of art for a hospital that provides specialized services, such as cardiac or orthopedic services. It is synonymous with the term “niche hospital.”

Sec. 133.21 General.

- A new rule specifies requirements for multi-hospital licensure under one license. The requirements address multi-hospital licensure under a single license; emergency services requirements for each hospital under a single license; change in ownership; and administration. [*§133.21(c)(4)*]
- A new rule prohibits a hospital license and an ambulatory surgical center license from being issued for the same premises. [*§133.21(c)(5)*] NOTE: The Texas Department of State Health Services has indicated that this rule is not intended to prohibit a hospital from owning and operating a licensed ASC on the same campus as the hospital.
- A new rule requires a hospital to notify the department of any change in its emergency contact name and telephone number. [*§133.21(g)(2)(D)*]

Sec. 133.22 Application and Issuance of Initial License.

- A new rule requires a hospital to provide, upon initial license application, the following ownership information:
 - the name and Social Security number of the sole proprietor, if the applicant is a sole proprietor;
 - the name and Social Security number of each partner who is an individual, if the applicant is a partnership;
 - the name and Social Security number of any individual who has an ownership interest of more than 25 percent in the corporation, if the applicant is a corporation; and
 - if the applicant is a niche hospital, the names and license numbers of any physicians licensed by the Texas Medical Board who have a financial interest in the applicant or any entity which has an ownership interest in the applicant. [*§133.22(a)(8)*]
- The requirement for TDSHS, as part of the initial license application process, to verify the franchise tax status of a hospital that is a corporation is deleted.
- The requirement that an applicant for licensure of a newly constructed hospital or for a hospital converted from a non-hospital building submit a complete and accurate notarized Affidavit for Final Construction Approval form has changed. The new rule requires a complete and accurate Final Construction Approval form to be submitted to the department. [*§133.22(b)(6)*]
- The old requirement that the project architect for a newly constructed hospital or for a hospital converted from a non-hospital building submit a statement to the department that the hospital's project plans have been submitted to the Texas Department of Licensing and Regulation has been removed. NOTE: Hospitals planning new construction or renovation carefully should review the documentation submittal requirements contained in §133.167 and §133.168.

Sec. 133.23 Application and Issuance of Renewal License.

- A new rule requires that hospital fire safety surveys be conducted annually and that copies of both years' surveys be submitted with the biennial license renewal application form. [*§133.23(b)(1)(B)*]
- The rule relating to documentation of accreditation is revised. The old rule required a hospital that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association to submit to the department a copy of documentation from the accrediting body showing the hospital's current accreditation status. The revised rule requires a hospital that is accredited by an organization approved by the Centers for Medicare & Medicaid Services to provide, upon license renewal, documentation from the accrediting body showing the current accreditation status of the hospital. [*§133.23(b)(1)(D)*]
- A new rule requires a hospital to provide, upon license renewal, the following ownership information:
 - the name and Social Security number of the sole proprietor, if the applicant is a sole proprietor;
 - the name and Social Security number of each partner who is an individual, if the applicant is a partnership;

- the name and Social Security number of any individual who has an ownership interest of more than 25 percent in the corporation, if the applicant is a corporation; and
- if the applicant is a niche hospital, the names and license numbers of any physicians licensed by the Texas Medical Board who have a financial interest in the applicant or any entity which has an ownership interest in the applicant. *[\S133.23(b)(1)(E)]*
- Rule language relating to requirements to submit an annual medical error events report and best practices report is transferred. (See §133.48 relating to Patient Safety Program)
- The requirement for TDSHS, as part of the license renewal process, to verify the franchise tax status of a hospital that is a corporation is deleted.

Sec. 133.24 Change of Ownership.

- A new rule requires a corporate licensee to notify TDSHS of a name change within 10 calendar days. *[\S133.24(a)(1)]*
- A new rule requires a hospital license applicant, on change of ownership, to indicate that it affirmatively has adopted any transfer agreements previously approved by TDSHS. *[\S133.24(b)]*
- A new rule requires a hospital license applicant, on change of ownership, to include in the documents submitted to TDSHS a copy of the signed bill or lease agreement that reflects the effective date of the sale or lease. *[\S133.24(b)]*

Sec. 133.25 Time Periods for Processing and Issuing Hospital Licenses.

- Minor changes in wording are made. *[\S133.25]*

Sec. 133.26 Fees.

- A new fee of \$20 is added to each license renewal application. The fee is for subscribing to TexasOnline. *[\S133.26(f)]*

Sec. 133.41 Hospital Functions and Services.

Sec. 133.41(a) Anesthesia services.

- A new requirement is added that anesthesia services, if furnished, be provided under the direction of a qualified physician in accordance with the Medical Practice Act and the Nursing Practice Act. *[\S133.41(a)]*
- A new rule states that only personnel who have been approved by the facility to provide anesthesia services are allowed to administer anesthesia. *[\S133.41(a)(1)]*
- A new requirement is added that the hospital be responsible for and document all anesthesia services administered in the hospital. The rule also requires documentation of all approvals or delegations of anesthesia services including training, experience and qualifications of the person providing the service. *[\S133.41(a)(1)]*
- The previous detailed list of who may administer anesthesia has been deleted from the rules.

Sec. 133.41(b) Chemical dependency services.

- The old rule required a hospital providing chemical dependency services in an identifiable unit to comply with the chemical dependency treatment facility licensure standards at Volume 40, Texas Administrative Code, Chapter 148. The new rule instead requires a hospital providing chemical dependency services in an identifiable unit to comply with Volume 25, Texas Administrative Code, Chapter 448 relating to the standard of care applicable to all providers. [§133.41(b)(3)]

Sec. 133.41(c) Comprehensive medical rehabilitation services.

- New language requires that a hospital providing rehabilitation services adopt, implement and enforce (instead of “have”) written patient care policies that govern the services. [§133.41(c)(5)(A)(iii)]
- New language requires that emergency equipment be tested periodically according to the policy adopted, implemented and enforced (instead of “established”) by the hospital. [§133.41(c)(3)(B)]
- New language renames the director of the service as the “medical director or clinical director.” [§133.41(c)(5)(C)(i), (ii)]
- The existing rule, which had not included physicians, dentists or podiatrists in the list of professionals who issued orders for patients receiving rehabilitation services, is corrected. The correction adds them under the provision relating to written treatment plans. [§133.41(c)(7)(C)(iii)]

Sec. 133.41(d) Dietary services.

- “Quality assurance” program is renamed “quality assessment and performance improvement” program. [§133.41(d)(2)(D)(i)]
- A new rule requires that there be a four-day supply of food on hand at all times. The director of the food and dietetic service is responsible for ensuring that this supply is on hand. [§133.41(d)(2)(E)(vi)]
- New provisions expand the scope of who may issue orders addressing patient nutritional needs (in addition to physicians). The additions include “appropriately credentialed practitioners.” [§133.41(d)(3)(B)]
- Reference to “Nutrition and Your Health: Dietary Guidelines for Americans, Fourth edition, 1995” as a menu guide is deleted.
- Language regarding recommended food servings and allowances is deleted.

Sec. 133.41(e) Emergency services.

- A new rule requires that the person directing the emergency service be the medical director or clinical director of the service. [§133.41(e)(1)(A)]
- A new rule requires that a qualified person be on duty and available at all times to initiate lifesaving measures (prior rule required only that the person be on duty at all times). [§133.41(e)(2)(B)(i)] New provisions exempt those comprehensive medical rehabilitation hospitals and pediatric and adolescent hospitals that generally provide care that is not administered for or in expectation of compensation from the application of this rule. [§133.41(e)(2)(B)]

- A new rule requires that qualified personnel physically be present in the emergency treatment area at all times in general hospitals where the emergency treatment area is not contiguous with other areas of the hospital that maintain 24-hour staffing by qualified staff. [§133.41(e)(2)(B)(ii)(2)] New provisions exempt those comprehensive medical rehabilitation hospitals and pediatric and adolescent hospitals that generally provide care that is not administered for or in expectation of compensation from the application of this rule. [§133.41(e)(2)(B)]
- A new rule addresses emergency services staffing requirements, as follows:
 - In counties with population of 100,000 or more: general hospitals must have a physician qualified to provide emergency care on duty in the emergency treatment area at all times. [§133.41(e)(2)(C)(i)] Comprehensive medical rehabilitation hospitals and pediatric and adolescent hospitals that generally provide care that is not administered for or in expectation of compensation are exempted from the application of this rule. [§133.41(e)(2)(C)] Critical access hospitals also are exempted from this rule. [§133.41(e)(2)(C)(i)]
 - In counties of less than 100,000 population: general hospitals must have a physician on-call and able to respond to emergencies in person, or by radio or telephone within 30 minutes. [§133.41(e)(2)(C)(ii)] Comprehensive medical rehabilitation hospitals and pediatric and adolescent hospitals that generally provide care that is not administered for or in expectation of compensation are exempted from the application of this rule.
 - Special hospitals and hospitals designated as CAHs: these hospitals must have a physician on-call and able to respond to emergencies in person, or by radio or telephone within 30 minutes. [§133.41(e)(2)(C)(ii)] The county's population is irrelevant. Comprehensive medical rehabilitation hospitals and pediatric and adolescent hospitals that generally provide care that is not administered for or in expectation of compensation are exempted from the application of this rule. [§133.41(e)(2)(C)]
- New language requires that emergency supplies and equipment be age appropriate. [§133.41(e)(4)] NOTE: The term "age appropriate" is not defined; presumably, it refers to children (and, potentially, the elderly). One could draw a reasonable conclusion that the rule is intended to require hospitals to have available different sizes and types of emergency supplies and equipment depending on the range of ages of patients presenting. Hospitals should consult with the department on the application and implementation of this rule.
- The rule allowing the emergency treatment room for a special hospital, a comprehensive medical rehabilitation hospital, or a pediatric and adolescent hospital to be located anywhere in the hospital, is transferred to the subsection entitled "Spatial Requirements for New Construction." (See §133.163(f)(1)(A)(8))
- The list of required emergency supplies and equipment is expanded, to include :
 - stabilization devices for cervical injuries;
 - blood pressure monitoring equipment; and
 - pulse oximeter or similar medical device to measure blood oxygenation.
 [§133.41(e)(4)(I), (J), (K)]
- A new rule requires a general hospital to participate in the local emergency medical service system, based on the hospital's capabilities and capacity, and the locale's existing EMS plan and protocols. [§133.41(e)(5)(A)] This provision does not apply

to a comprehensive medical rehabilitation hospital or a pediatric and adolescent hospital that generally provides care that is not administered for or in expectation of compensation. [§133.41(e)(5)B)]

- A new rule requires a hospital to provide emergency services to survivors of sexual assault. The requirements relate to: policy implementation and enforcement; treatment, stabilization and transfer as appropriate; privacy; forensic medical examination; access to a sexual assault program advocate, if available; specific information regarding assistance; if indicated, access to appropriate prophylaxis for exposure to STDs; and submittal to TDSHS (if requested) of the hospital's plan for providing services to sexual assault survivors. [§133.41(e)(6)]

Sec. 133.41(f) Governing body.

- The following provisions are deleted from the governing body section:
 - a requirement that the governing body ensure that staff membership or professional privileges are not based solely on certification, fellowship or membership in a specialty body or society; and
 - a requirement that the governing body ensure that the medical staff is accountable to the governing body for the quality of care provided to patients. NOTE: Although this accountability provision has been removed from the section of the rules regarding the governing body, it has been retained in the section of the rules regarding the medical staff. (See §133.41(k)(2)).
- New rules are added regarding mediation; the granting of clinical privileges for advanced practice nurses and physician assistants; and procedural fairness in the application process for advanced practice nurses and physician assistants. The provisions track those in the Hospital Licensing Law. [§133.41(f)(4)(C)]
- A new rule prohibits a hospital from denying membership or privileges to an applicant for medical staff membership or privileges on any ground that is otherwise prohibited by law. [§133.41(f)(4)(C)(i)(III)]
- A new rule authorizes hospital bylaws requirements for staff privileges to require a physician, podiatrist or dentist to document the person's current clinical competency and professional training and experience in the medical procedures for which privileges are requested. [§133.41(f)(4)(C)(i)(IV)]
- A new rule requires the governing body to be responsible for and ensure that any policies and procedures it adopts to implement the requirements of the hospital licensing rules are implemented and enforced. [§133.41(f)(4)(F)]
- The old rule required the governing body to ensure that a contractor of services furnished them in a safe and effective manner. The revised rule requires the governing body to ensure that "services" (whether furnished directly or under contract) are provided in a safe and effective manner. [§133.41(f)(7)]

Sec. 133.41(g) Infection control.

- "Infection control coordinator" is renamed as "infection control professional." [§133.41(g)(1)]
- The required log of reportable diseases and nosocomial infections is redesignated as the required log of reportable diseases and health care-associated infections. [§133.41(g)(1)(B)]

- A new rule requires the hospital's written policy for reportable diseases to be adopted, implemented and enforced. [*§133.41(g)(1)(C)*]
- The requirement to report certain diseases to the local health authority or the state is changed to a requirement to report them to the local health authority and the state. [*§133.41(g)(1)(C)*]
- A new rule requires the infection control program to include active participation by the pharmacist. [*§133.41(g)(1)(D)*]

Sec. 133.41(h) Laboratory services.

- A new rule requires that a hospital establish a mechanism for ensuring that a 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. [*§133.41(h)(3)(F)*]

Sec. 133.41(i) Linen and laundry services.

- The definition of "contaminated linen" is moved here from the definitions section. [*§133.41(i)(1)*]
- New language is added to clarify that flammable liquids, although prohibited from use in processing laundry, may be used in the laundry for equipment maintenance. [*§133.41(i)(2)(H)*]

Sec. 133.41(j) Medical record services.

- A new rule requires all orders (except verbal orders) to be dated, timed and authenticated the next time 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 which are consistent with the written orders) provides care to the patient, assesses the patient or documents information in the patient's medical record. [*§133.41(j)(6)*]
- A new rule requires all verbal orders to be dated, timed and authenticated within 48 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. [*§133.41(j)(7)*]
- The definition of "legally reproduced form" is moved here from the definitions section. [*§133.41(j)(8)*]
- The requirement that the medical record include evidence of a physical examination, including a health history, performed no more than seven days prior to or 48 hours after admission, has been changed. The revised rule requires evidence of a physical examination, including a health history, performed no more than 30 days prior to or 24 hours after admission. [*§133.41(j)(8)(C)*] The new rule also requires the medical history and physical exam documentation to be placed in the patient's medical record within 24 hours after admission. [*§133.41(j)(8)(C)*]
- A new rule requires an updated medical record entry documenting an examination for any changes in the patient's condition when the medical history and physical examination are completed within 30 days before admission. [*§133.41(j)(8)(D)*] This updated examination must be completed and documented in the patient's medical record within 24 hours after admission. [*133.41(j)(8)(D)*]

Sec. 133.41(k) Medical staff.

- The requirement that the medical staff bylaws mandate that the physical examination and medical history be performed no more than seven days before or 48 hours after admission, has been changed. The revised rule requires the medical staff bylaws to mandate that physical exams and medical histories be performed no more than 30 days before or 24 hours after admission. [§133.41(k)(3)(F)] A new provision requires that the medical history and physical examination documentation be placed in the patient's medical record within 24 hours after admission. [§133.41(k)(3)(F)] When the medical history and physical examination are completed within 30 days before admission, an updated examination for any changes in the patient's condition must be completed and documented in the patient's medical record within 24 hours after admission. [§133.41(k)(3)(F)]

Sec. 133.41(l) Mental health services.

- The old law required a hospital providing mental health services in a mental health unit to have written admission criteria. The revised rule requires a hospital providing mental health services to have written admission criteria. [§133.41(l)(2)]
- The old law required a hospital providing mental health services in an identifiable part of the hospital to comply with the five listed sets of patient-care rules. The revised rule requires a hospital providing mental health services to comply with the five listed sets of patient-care rules. [§133.41(l)(3)]

Sec. 133.41(m) Mobile, transportable, and relocatable units.

No changes.

Sec. 133.41(n) Nuclear medicine services.

- A new rule requires nuclear medicine services, if provided, to be licensed under 25 T.A.C. §289.256 (relating to Medical and Veterinary Use of Radioactive Material). [§133.41(n)]
- A new rule requires that nuclear medicine workers be provided personal monitoring dosimeters to measure their radiation exposure. [§133.41(n)(3)(D)]
- The requirement that the hospital maintain certain radiopharmaceutical records for two years is changed to a requirement that the hospital maintain certain radiopharmaceutical records until disposal is authorized by the department's Radiation Safety Licensing Branch. [§133.41(n)(5)(B)]

Sec. 133.41(o) Nursing services.

- A new rule requires an RN to be on duty in each building of a licensed hospital that contains at least one nursing unit where patients are present. [§133.41(o)(2)(D)]
- The rule requiring that at least one-third of the members of the "hospital advisory committee on nursing plan" be registered nurses who are involved in direct patient care at least 50 percent of their work time is revised. The revised rule raises the required number of RNs on the committee to at least one-half of the committee members. [§133.41(o)(2)(H)(i)]

- A new rule requires all orders for drugs and biologicals to be dated and timed. [*§133.41(o)(3)(B)*]
- A new rule requires telephone or verbal orders to be dated, timed and authenticated within 48 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 which are consistent with the written orders. [*§133.41(o)(3)(B)(iii)*]
- Statutory and regulatory references regarding nurse peer review and reporting are updated. [*§133.41(o)(5)*]
- New, detailed provisions are added regarding hospital policies and procedures related to workplace safety. Specifically, the hospital must adopt, implement and enforce policies and procedures related to the work environment for nurses which: improve workplace safety and reduce the risk of injury, occupational illness and violence; and increase the use of ergonomic principles and ergonomically designed devices to reduce injury and fatigue. The policies and procedures at a minimum must include:
 - evaluating new products and technology that incorporate ergonomic principles;
 - educating nurses in the application of ergonomic practices;
 - conducting workplace audits to identify areas of risk of injury, occupational illness or violence, and recommending ways to reduce those risks;
 - controlling access to those areas identified as having a high risk of violence; and
 - promptly reporting crimes committed against nurses to appropriate law enforcement agencies. [*§133.41(o)(6)*]
- New, detailed provisions are added regarding hospital policies and procedures for safe patient handling and movement practices. The policies and procedures must be adopted, implemented and enforced, and must establish a process that, at a minimum, includes the following:
 - analysis of the risk of injury to both patients and nurses posed by the patient handling needs of the patient populations served by the hospital and the physical environment in which patient handling and movement occurs;
 - education of nurses in the identification, assessment and control of risks of injury to patients and nurses during patient handling;
 - evaluation of alternative ways to reduce risks associated with patient handling, including evaluation of equipment and the environment;
 - 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;
 - collaboration with and annual report to the nurse staffing committee;
 - 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;
 - 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
 - development of architectural plans for constructing or remodeling a hospital or a unit of a hospital 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. [*§133.41(o)(7)*]

Sec. 133.41(p) Outpatient services.

- No substantive changes.

Sec. 133.41(q) Pharmacy services.

- The requirement that the hospital pharmacist comply with a specific set of laws listed in the rules (including the Texas Pharmacy Act and the Texas Controlled Substances Act) is expanded to require the pharmacist to comply with all applicable statutes and rules. [*§133.41(q)(1)*]
- The requirement that drugs and biologicals be kept in a locked storage area has been revised to require them to be kept in a secure area, and locked when appropriate. [*§133.41(q)(5)(B)*]
- The requirement that dangerous drugs and controlled substances be secure from unauthorized use has been revised to require Schedule II-V drugs to be kept locked within a secure area. [*§133.41(q)(5)(B)(ii)*]
- The requirement that a pharmacist be readily available to discuss issues such as drug therapy and interactions has been revised to require that a pharmacist be readily accessible. [*§133.41(q)(5)(H)(i)*] NOTE: The purpose of this change is to avoid potential confusion in the use of the term “available,” which is defined in the new rules as requiring onsite availability of health care personnel to perform hands-on care in an emergency rapidly (see definitions section at §133.2(6)).

Sec. 133.41(r) Quality assessment and performance improvement.

- “Quality assurance” is renamed “quality assessment and performance improvement.” [*§133.41(r)*]
- A new rule requires that the hospital’s QAPI program be data-driven. [*§133.41(r)*]
- New provisions require the QAPI program to: reflect the complexity of the hospital’s organization and services; include an ongoing program that shows measurable improvements in health-outcome indicators; and identify and reduce medical errors. [*§133.41(r)(1)*]
- New QAPI program requirements are added related to the hospital’s:
 - evaluation of services as to appropriateness of diagnosis and treatment;
 - measurement, analysis and tracking of quality indicators;
 - use of data to monitor care and identify opportunities for improvement;
 - establishment of priorities for high-risk, high-volume or problem-prone areas;
 - establishment of performance improvement activities that affect patient safety, and implementation of preventive actions; and
 - measurement of the success of performance improvement activities implemented, and use of ongoing tracking of performance.[*§133.41(r)(1)(D)-(I)*]
- New, detailed requirements are added regarding the responsibilities of the hospital’s governing body, medical staff and administrative staff relating to the QAPI program. [*§133.41(r)(2)*]

- The requirement that discharge planning be implemented in a timely manner has been revised to require that discharge planning be completed prior to discharge. [*§133.41(r)(3)(A)*]
- The requirement that a hospital take and document appropriate remedial actions to address deficiencies found through the quality assurance program has been revised to require the hospital to: take actions aimed at performance improvement; measure their success; and track performance. [*§133.41(r)(4)*]

Sec. 133.41(s) Radiology services.

- A new rule requires that all radiology equipment be licensed and registered as required under 25 T.A.C. 289. [*§133.41(s)*]
- The requirement that radiology services (particularly ionizing radiology procedures) be free from hazards to patients and personnel has been revised to require that the services minimize such hazards. [*§133.41(s)(2)*]
- A new rule requires proper safety procedures, equipment maintenance and testing of radiology equipment. [*§133.41(s)(2)(A)*]
- A new rule requires that radiology equipment be inspected by or under the supervision of a licensed medical physicist in accordance with 25 T.A.C. §289.227(o). [*§133.41(s)(2)(B)*]
- The requirement that workers be checked for radiation exposure using exposure meters or badge tests has been revised to require that they be provided personal monitoring dosimeters. Also, a new provision requires that documentation of exposure to radiation be made available for review. [*§133.41(s)(2)(C)*]

Sec. 133.41(t) Renal dialysis services.

- This is an entirely new and very detailed section of the rules. In general terms, it addresses equipment, water treatment and dialysate concentrates, and prevention requirements concerning patients receiving renal dialysis services. [*§133.41(t)*]

Sec. 133.41(u) Respiratory care services.

- New language clarifies that the director of respiratory care services must be a medical director or clinical director. [*§133.41(u)(3)*]

Sec. 133.41(v) Sterilization and sterile supplies.

- A new definition is added for “biological indicators.” [*§133.41(v)(2)(H)*]
- The requirement that a hospital adopt and implement a policy to determine the shelf life of sterilized packages has been expanded to require also that the hospital enforce this policy. [*§133.41(v)(2)(L)(iii)*]
- The requirement that a hospital have a policy on preventive maintenance of sterilizers has been expanded to require the hospital to adopt, implement and enforce the policy. [*§133.41(v)(2)(M)*]

Sec. 133.41(w) Surgical services.

- Circulating duties in the operating room must be performed by qualified RNs. In accordance with approved medical staff polices and procedures, LVNs and surgical

technologists may assist in circulatory duties under the direct supervision of a qualified RN circulator. [*§133.41(w)(1)(C)*]

Sec. 133.41(x) Therapy services.

No substantive changes.

Sec. 133.41(y) Waste and waste disposal.

No substantive changes.

Sec. 133.42 Patient Rights.

- A new rule defining the term advance directive is added to this section. The definition has been revised and transferred from the definitions section of the rules. [*§133.42(a)(1)(C)(ii)*]
- The requirement that a hospital's medical staff and governing body develop a policy on informed decision-making by patients has been revised to require the hospital's medical staff and governing body to adopt, implement and enforce such a policy. [*§133.42(a)(1)(D)*]
- Language is added throughout the patient rights section to clarify that many of the special rights referred to are applicable to patients receiving special services (i.e., comprehensive medical rehabilitation services, chemical dependency services or mental health services). [*§133.42*]

Sec. 133.43 Discrimination or Retaliation Standards.

- A new reference to Health and Safety Code §161.134(j) regarding posting requirements related to protection from discrimination for reporting a violation of law is added. [*§133.43(a)*]

Sec. 133.44 Hospital Patient Transfer Policy.

- Definitions of "designated provider" and "mandated provider" are added to this section. They are transferred from the definitions section of the rules. [*§133.44(a)(1), (2)*]
- Language has been added requiring the hospital's patient transfer policy to identify hospital staff who have the authority to represent the hospital and the physician with regard to the transfer from or receipt of patients into the hospital. [*§133.44(b)(1)*]
- Language has been added to clarify that transfer policies apply to transfers between licensed hospitals and to transfers to hospitals that are exempt from licensure (e.g., hospitals owned or operated by the state and military hospitals). [*§133.44(b)(2)*]
- The previous rule required that a hospital have a policy mandating that a physician be: (1) physically able to reach the patient within 30 minutes; or (2) available within 30 minutes to communicate with authorized nursing staff. The revised rule has changed the second provision. It requires the physician to be accessible within 30 minutes to communicate with a registered nurse, physician assistant or other qualified medical personnel as established by the governing body at the hospital. [*§133.44(c)(4)(A)(ii)*]

- The previous rule required telephone or radio physician orders for transfer to be signed by a “hospital staff member.” The revised rule requires the signature of a registered nurse, physician assistant or other qualified medical personnel as established by the governing body. [*§133.44(c)(4)(B)(ii)*]
- The old rule required the hospital’s patient transfer policy to prohibit transfer of an unstabilized patient with an emergency medical condition unless the patient or legally authorized representative requested a transfer in writing. The revised rule adds requirements that the person indicate the reasons for the transfer request and indicate also that he or she is aware of the risks and benefits of the transfer. [*§133.44(c)(6)(B)(i)*]
- A new rule requires a hospital to provide medical treatment to a patient with an emergency medical condition 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. [*§133.44(c)(6)(C)*]
- A new rule prohibits a hospital that has specialized capabilities (such as burn units, shock-trauma units, neonatal intensive care units, or, with respect to rural areas, regional referral centers) from refusing to accept from a referring hospital an appropriate transfer of an individual who requires such specialized capabilities if the receiving hospital has the capacity to treat the individual. [*§133.44(c)(6)(D)*]
- A new rule permits a copy of the memorandum of transfer to be filed with the patient’s medical record. [*§133.44(c)(6)(D)*]

Sec. 133.45 Miscellaneous Policies and Protocols.

- The rule regarding disaster preparedness has been renamed “all-hazard disaster preparedness.” [*§133.45(c)*] It has undergone extensive revision and expansion. The revised rule requires hospitals to adopt, implement and enforce an all-hazards disaster preparedness plan. Among other requirements, the plan must address:
 - information on the names and contact numbers of city and county emergency management officers and the hospital water supplier;
 - annual disaster exercises;
 - notification of hospital personnel in a disaster;
 - food and shelter for volunteers, staff and staff families;
 - plan-activation protocol;
 - evacuation protocol;
 - family notification when a patient is evacuated, including the patient’s destination;
 - transport of records and supplies in an evacuation; and
 - a department-approved process for updating bed availability. [*§133.45(c)(4)*]
- The requirements for hospitals that provide prenatal or obstetric care have been clarified and expanded. A hospital that provides prenatal care to a pregnant woman during gestation or at delivery of an infant must adopt, implement and enforce a detailed policy relating to parenting and postpartum counseling information. [*§133.45(f)*] The policy must include a requirement that the woman’s record contain documentation that the information was provided and that the documentation be maintained for at least five years. [*§133.45(f)(2)*]
- A new rule requires a hospital to adopt, implement and enforce a policy for providing influenza and pneumococcal vaccines for elderly individuals. [*§133.45(h)*] The

policy must address: informing elderly patients of the availability of the vaccines; when the vaccines will be made available; an inquiry whether the elderly patient currently is vaccinated; required documentation; and waivers of vaccine requirements based on shortages. [§133.45(h)(1)-(5)]

Sec. 133.46 Hospital Billing.

No substantive changes.

Sec. 133.47 Abuse and Neglect Issues.

- The old rule required a person including an employee or volunteer in a hospital providing comprehensive medical rehabilitation, mental health or chemical dependency services to report abuse or neglect of a patient receiving one of these services in the facility. This generally tracks the language of the reporting statute, §161.132(a), Health and Safety Code. The revised rule deletes the reference to comprehensive medical rehabilitation services. NOTE: Reporting of abuse or neglect of a patient receiving comprehensive medical rehabilitation services still is required by statute. [§133.47(c)(3)(A)]
- The old rule required an employee of, or other person associated with, a hospital providing comprehensive medical rehabilitation, mental health facility or chemical dependency services to report illegal, unprofessional or unethical conduct. This generally tracks the language of the reporting statute, §161.132(b), Health and Safety Code. The revised rule deletes the reference to comprehensive medical rehabilitation services. NOTE: Reporting of illegal, unprofessional or unethical conduct that relates to rehabilitation services provided in the facility still is required by statute. [§133.47(c)(3)(A)]
- The previous rule required a hospital to provide eight hours of training to staff on identifying abuse, neglect or illegal, unethical or unprofessional conduct – if the hospital provided rehabilitation, mental health or substances abuse services in a separate and distinct part of the hospital. The “in a separate and distinct part of the hospital” language has been deleted in the revised rule. [§133.47(c)(4)]
- The process for TDSHS to investigate allegations of abuse or neglect, and illegal or unprofessional conduct, has been revised. The revised rule establishes a bifurcated process for investigations. One process relates to an allegation of abuse or neglect of a child or an elderly person. The other relates to an allegation of abuse or neglect of individuals with mental illness, or to an allegation of illegal or unprofessional conduct. [§133.47(d)]

Sec. 133.48 Patient Safety Program.

- Definitions for “medical error,” “reportable event” and “root cause analysis” are added to the rule. [§133.48(a)(1)]
- A new rule requires a hospital to submit the following to TDSHS on the anniversary date of the license expiration:
 - an annual report of reportable events; and
 - a report of best practices and safety measures related to a reportable event.[§133.48(a)(6)] NOTE: The statute requiring annual reporting of reportable events and report of best practices is set to expire on Sept. 1, 2007, by

legislative mandate (see House Bill 1614 [passed in 2003]). The department has indicated its intent to recommend deletion of these reporting requirements sometime in the future.

Sec. 133.61 Hospital Patient Transfer Agreements.

- The rule providing that a memorandum of transfer is not required if hospitals are governed by a transfer agreement, has been deleted.
- The requirement that TDSHS provide a “complete statement of deficiencies, when notifying a hospital if a transfer agreement is deficient,” has been modified in the new rules to require merely that the department give notice to the hospital administration that the transfer agreement is deficient. [*§133.61(c)(6)*]
- The rule providing a specific enforcement mechanism for the department to respond to complaints alleging a hospital’s failure to follow the rules for hospital patient transfer agreements has been deleted.
- A new rule adds specific requirements for language in patient transfer agreements. The agreements must include language addressing:
 - a prohibition against discrimination;
 - transfer of patients with emergency conditions;
 - compliance with the Indigent Health Care and Treatment Act;
 - a statement regarding the patient’s right to request transfer;
 - requirements related to the physician’s duties and standard of care; and
 - requirements related to the patient’s medical record and the memorandum of transfer. [*§133.61(b)*]
- A new rule specifies that a transfer agreement is considered in compliance if consistent with rules in effect at the time the transfer agreement was executed and approved by TDSHS. [*§133.61(c)(7)*]

Sec. 133.62 Cooperative Agreements.

- The detailed provisions relating to the contents of an application for a certificate of public advantage governing a cooperative agreement, review of the application by the department and monitoring of cooperative agreements by the department have been deleted in the new rule. The new rule essentially authorizes parties to a cooperative agreement to submit an application to the department for a certificate of public advantage along with the requisite fee and a copy of the cooperative agreement. NOTE: Hospitals considering applying for a certificate of public advantage governing a cooperative agreement carefully should review the underlying statute, Chapter 314, Health and Safety Code. [*§133.62*]
- A new rule requires that a copy of the application and related materials be submitted to the Texas attorney general and the department at the same time. [*§133.62(d)*]

Sec. 133.81 Waiver Provisions.

- The rule regarding the waiver application process is revised by placing specific requirements on the hospital applying for a waiver. Specifically, the applicant must address each of the following points in its waiver application:
 - evidence that the waiver, if granted, will not affect health and safety of patients, employees or the public adversely;

- indicate how the waiver would not affect the hospital’s participation in the Medicare program, or its accreditation;
- describe how not granting the waiver would impose an unreasonable hardship on the hospital in providing patient care;
- describe how the waiver would help in the creation or operation of the hospital; and
- explain why the waiver would be appropriate when balanced against the best interests of the individuals served by the hospital. *[§133.81(b)(1)-(5)]*
- A new rule requires the hospital to maintain in its permanent records the original order from the department granting the waiver. *[§133.81(g)]*

Sec. 133.101 Inspection and Investigation Procedures.

- The old rules allowed the department to conduct an inspection of a hospital that is exempt from the annual licensing inspection before issuing a renewal license if the accreditation or certification body has not conducted an onsite inspection within three years. This longstanding provision has been continued in the new rules, as has the requirement that the department must determine first that an inspection of the hospital by an accreditation or certification body is not scheduled within a certain timeframe. However, the new rules raise this timeframe from 60 to 90 days. *[§133.101(a)(2)]*
- The rule regarding unannounced complaint investigations is revised. The old rules stated that complaint investigations “generally” were unannounced. The new rules contain a blanket statement that complaint investigations are unannounced. *[§133.101(b)(4)]*
- A new rule adds a requirement that the department notify the complainant following a complaint investigation of a hospital if the complaint was substantiated and if regulatory violations were identified. *[§133.101(b)(5)]*

Sec. 133.102 Complaint Against a Department of State Health Services Surveyor.

- The rules update where to submit a complaint to the department about a surveyor. *[§133.102(b)]*

Sec. 133.121 Enforcement Action.

- New grounds for denial, revocation or suspension of a hospital license are added:
 - fraud or misrepresentation of a material fact on any documents submitted by the hospital to the department; and
 - failure to implement a plan of correction. *[§133.121(1)(G), (I)]*
- New grounds for denial of a license are added, including:
 - failure of the license applicant to provide sufficient and timely information to the department that is directly related to a license application;
 - decertification of the license applicant by Medicare in any state within the preceding two years; and
 - federal Medicare or state Medicaid sanctions against the license applicant within the preceding two years. *[§133.121(2)]*
- A new rule provides a process for emergency suspension of a hospital license. *[§133.121(3)]*

- The provisions regarding administrative penalties have been shortened (by making reference to the underlying provisions of the Health and Safety Code), and transferred to this section (25 T.A.C. §133.121) from the old rule (formerly located at 25 T.A.C. §133.122 and entitled “Administrative Penalty”). [*§133.121(5)*] Since the administrative-penalties references have been transferred, the old administrative-penalties section, §133.122, has been deleted.
- The rules expand the list of criminal laws that the department can take into account in determining whether a license applicant’s criminal conviction directly relates to the duties and responsibility of owning a hospital. [*including §133.121(6)(C)(vii)(IV), (VII)*]
- A new rule sets forth the circumstances under which TDSHS is required to revoke a license based on criminal conviction or other criminal penalty. [*§133.121(6)(c)(ix)*]
- The rules increase the number of days within which a licensee may in writing either accept the department’s determination, or request a hearing following receipt of a notice from the department proposing to deny, suspend or revoke the license. The number is increased from 15 to 20 days following receipt of the department’s notice. [*§133.121(8)*]
- A new rule states that surrender of a facility license in anticipation of an impending enforcement action does not deprive TDSHS of jurisdiction in regard to enforcement against the facility. [*§133.121(16)*]

Sec. 133.141 Fire Prevention and Protection.

- The rules update references to various National Fire Protection Association publications. The publications include those relating to: requirements for buildings in which existing hospitals are located; sprinkler systems for exterior fire exposures; water-based fire protection systems; and range hood extinguishers. [*§133.141*]

Sec. 133.142 General Safety.

- The old emergency-preparedness rule requiring a hospital to develop plans for effective preparedness, mitigation, response and recovery from disasters has been moved and expanded. The transferred and expanded provisions are located in §133.45, “Miscellaneous Policies and Protocols.”

Sec. 133.143 Handling and Storage of Gases, Anesthetics and Flammable Liquids.

- The old rule prohibited flammable germicides from being used for preoperative preparation of the surgical field. The revised rule allows the use of flammable germicides for preoperative surgical skin preparation, subject to conditions regarding: single-use prepared skin products; adherence to manufacturer’s safety warnings; development of written policies for safety precautions; staff training in product safety; a process for investigating all surgical suite fires and violations of policies; and mandatory reporting of all surgical suite fires to the department within two business days, as well as completion of a corrective action plan within 30 days. [*§133.143(a)*]
- The rules update various references to National Fire Protection Association publications. These relate to medical gases and liquefied medical gases, oxygen,

flammable and nonflammable gases and liquids, piped flammable gas systems, and flammable and combustible liquids. [§133.143(b)]

Sec. 133.161 Requirements for Buildings in Which Existing Licensed Hospitals Are Located.

- The rules update various references to National Fire Protection Association publications. [§133.161]
- The requirements for providing a dust and vapor barrier to separate areas undergoing demolition and construction from occupied areas have been expanded. The new requirements address:
 - required daily removal of any fire-retardant plastic material that is used for temporary daily usage;
 - mechanical filtration of the air inside the construction area; and
 - proper ventilation of the construction area, accompanied by negative air pressure in relation to adjoining areas as long as construction dust and odors are present. [§133.161(a)(2)(E)(iii)-(v)]
- A new rule requires temporary sound barriers to be provided where intense prolonged construction noises will disturb patients or staff in the occupied portions of the building. [§133.161(a)(2)(E)(vi)]

Sec. 133.162 New Construction Requirements.

- The rules contain a significant number of new or revised, and highly detailed, requirements for new hospital construction. The changes relate to items such as corridor width, building in a flood plain, general detail and finish requirements, ventilation and filtration, piping systems, medical gas and nurse calling systems. NOTE: Hospitals should review these provisions carefully with their facility managers, architects and engineers. [§133.162]

Sec. 133.163 Spatial Requirements for New Construction.

- The rules contain a significant number of new or revised, and highly detailed, spatial requirements for new hospital construction. NOTE: Hospitals should review these provisions carefully with their facility managers, architects and engineers. [§133.163]
- One of the key changes to this section of the rules relates to the emergency suite. The old rule differentiated between emergency facilities for general hospitals, and emergency facilities for special hospitals, comprehensive medical rehabilitation hospitals, and pediatric and adolescent hospitals. General hospitals were required to have an emergency first aid suite located on the grade level; separate pedestrian and ambulance entrances were required. Special hospitals, comprehensive medical rehabilitation hospitals, and pediatric and adolescent hospitals were required to have only an emergency treatment room, which could be located anywhere in the hospital. The new rule differentiates instead between: (1) requirements for all hospitals [§133.163(f)(1)(A)(i)]; and (2) additional requirements for general hospitals (except for those comprehensive medical rehabilitation hospitals and those pediatric and adolescent hospitals that generally provide care that is not administered for or in expectation of compensation). [§133.163(f)(1)(A)(ii)] The department has indicated

that one of the reasons for this new method of differentiation is to emphasize the requirement that all hospitals must provide some level of emergency services. The new rules also mandate that multiple-location hospitals meet these requirements. [*§133.163(f)*]

- However, note that those comprehensive medical rehabilitation hospitals and those pediatric and adolescent hospitals that generally do provide care in expectation of compensation would be required to meet the same requirements as for other general hospitals (e.g., emergency first aid suite located on the grade level; separate pedestrian and ambulance entrances; etc.).
- There are a number of new emergency-suite requirements applicable to general hospitals (except for those comprehensive medical rehabilitation hospitals and those pediatric and adolescent hospitals that generally provide care that is not administered for or in expectation of compensation). [*§133.163(f)(1)(A)(ii)*] Among the new provisions is a statement that additional signs (in addition to the emergency entry signage) may be required to direct patients to the emergency treatment area entrance when the emergency treatment area is not visible from the site entry. [*§133.163(f)(1)(A)(ii)(I)*].
- New rules are added for the regulation of intermediate care (step-down) suites. In general, these are suites for acute-care patients who require frequent monitoring that exceeds the level of care for nursing units and is less than that provided in critical care units. When provided, intermediate care suites must meet detailed architectural, spatial, electrical, finish and detail requirements. NOTE: Hospitals planning to provide intermediate care suites should review these provisions carefully with their facility managers, architects and engineers. [*§133.163(m)*]
- New rules are added for the regulation of universal care suites. These are suites that are flexible in design to provide for a wide range of patient care depending on acuity. When provided, universal care suites must meet detailed architectural, spatial, electrical, finish and detail requirements. NOTE: Hospitals planning to provide universal care suites should review these provisions carefully with their facility managers, architects and engineers. [*§133.163(ff)*]

Sec. 133.164 Elevators, Escalators and Conveyors.

- NOTE: As a general principle, existing hospitals are not required to make changes to comply with the new changes to this section of the rules unless they are undergoing renovation or new construction. Hospitals should consult with their facility experts and the department if they have questions regarding the application of this rule.
- The rules update references to various safety codes. [*§133.164*]
- A new rule is added regarding elevator lobbies. The new rule requires an elevator lobby to be provided, and it must have at least 10 feet of clear floor space in front of each elevator door. [*§133.164(b)(1)*]
- A new rule is added regarding elevator shaft openings. The new provisions relate to smoke resistance. [*§133.164(b)(2)*]
- The requirement that cars of hospital-type elevators have a depth of at least nine feet has been changed. The revision requires that elevators used for patient transport have a depth of at least eight feet six inches. [*§133.164(b)(3)(A)*]

- A new rule requires B-labeled one-hour fire protection-rated doors in buildings less than four stories, and one-and-one-half hour fire protection-rated doors in buildings four or more stories. [*§133.164(b)(3)(C)*]
- The ratios of hospital-type elevators to patient beds in new hospitals are revised. [*§133.164(e)*]
- Other rule changes are made. Hospitals should review the actual language of this section for further guidance.

Sec. 133.165 Buildings with Multiple Occupancies.

- New rules are added regarding guest hospitals within a building in which another hospital is located. The following requirements apply:
 - The guest hospital must be in one separately contiguous location;
 - In no case may a person leave the guest hospital, traverse the host hospital and then re-enter the guest hospital to access the remaining portion of the guest hospital;
 - A connecting stair within the host hospital may be used to connect vertically contiguous areas of the guest hospital;
 - A guest hospital may not occupy two or more non-contiguous areas of a host hospital which contain intervening space of the host hospital even if on the same floor; and
 - Construction of the host hospital must conform to the requirements of the National Fire Protection Association 101, Chapter 18, and the building must be fully equipped with sprinklers.
- Several services that previously had been allowed to be provided on behalf of the guest hospital by the other hospital have been redesignated as, and added to, the list of services that must be provided by each hospital:
 - imaging and other diagnostic services and facilities;
 - laboratory services and laboratory suite; and
 - dietary services and dietary suite, including staff dining facilities.

[*§133.165(a)(2)(H), (I), (K)*].

NOTE: This rule does not contain a prohibition against providing these services by contract. Further, the department has indicated that these do not have to be full-blown services and that some of the requirements may be met by providing, for example: portable X-ray, a kitchen with capabilities to warm and refrigerate food, facilities for cleanup and several eating tables with chairs. Hospitals should consult with the department as part of their planning process to determine how their particular facility should meet these requirements.

- The emergency-facilities requirements for host and guest hospitals have been reworded and revised. The old rule essentially required “at least one general hospital” to meet the emergency services requirements found in old §133.163(f). That section required a general hospital to provide, among other things, a grade-level emergency suite and entrances. The old rule also required all other hospitals (such as special hospitals) that were in a hospital-within-a-hospital arrangement to provide an emergency treatment room (which could be located anywhere in the hospital); this provision continues in the new rule. The new rule also references the requirements for emergency facilities found in §133.163; however, note that when general hospitals share a building, the new rule requires each hospital to provide the emergency

services that are required of general hospitals. [§133.165(a)(2)(G)]. NOTE: Hospitals considering a hospital-within-a-hospital arrangement should consult with the department regarding the structural requirements for these arrangements.

- The rules add to the list of building systems and equipment that must be provided separately at each hospital. A new provision requires these systems to be provided at a 24-hour staffed location:
 - separate nurse calling systems;
 - medical gas alarms in each hospital;
 - fire alarm annunciator panels in each hospital (new requirement); and
 - an emergency generator annunciator panel in each hospital (new requirement). [§133.165(a)(5)(A)]
- A new rule prohibits the guest hospital from being constructed in a host hospital when the host hospital is not equipped fully with sprinklers. The rule also requires the host and guest hospitals to be equipped fully with sprinklers. [§133.165(a)(5)(B)(iv)]
- While the rules continue to allow the building electrical service, lighting, essential electrical system and fire alarm to be a part of or an extension of those in the existing hospital, a new rule requires the host hospital to be responsible for the maintenance, testing and upkeep of the essential electrical system. [§133.165(a)(5)(B)(ix)(I)]
- The requirements for hospitals located in buildings with licensed health care facilities other than hospitals have been expanded extensively. The numerous additions include provisions relating to: building construction; separation of facilities using fire-rated noncombustible construction; and required equipment and systems that may be provided either exclusively for the hospital or by contractual agreement with a licensed health care facility. [§133.165(b)]
- The requirements for hospitals in buildings with nonhealth care occupancies have been expanded extensively. The numerous additions include provisions relating to: building construction; separation of the hospital from the other occupancies using fire-rated noncombustible construction; signage; required equipment and systems that must be provided for the exclusive use of the hospital unless otherwise noted; and systems that may be a part or extension of those in the existing building occupancies. [§133.165(c)]

Sec. 133.166 Mobile, Transportable and Relocatable Units.

- The rules update references to various National Fire Protection Association publications. [§133.166]
- A new rule requires the sites for mobile, transportable or relocatable units to have a level concrete or asphalt pad. [§133.166(c)(1)(A)]
- A new rule requires a covered walkway or enclosure from the hospital to the mobile, transportable or relocatable unit when the unit is not attached physically to the hospital and provides inpatient services. [§133.166(c)(1)(D)]
- A new rule requires a mobile, transportable or relocatable unit that is permanently connected or that does not move on a regular basis (i.e., every 90 days or less) to be provided with the following equipment and systems connected to the hospital:
 - fire alarm system;
 - sprinkler system;
 - electrical system and the essential electrical system;
 - water and waste water system;

- medical gas systems; and
- nurses calling systems. [*§133.166(c)(1)(F)*].

NOTE: In response to concerns raised by THA and others, this provision was raised from 30 days, as proposed, to 90 days.

Sec. 133.167 Preparation, Submittal, Review and Approval of Plans, and Retention of Records.

- This section contains a significant number of revisions of and additions to the rules regarding plans, processes and recordkeeping relating to construction, renovation and conversions of, as well as additions to, hospital buildings. Hospitals should review these provisions carefully with their facility managers, architects and engineers. Hospitals also should consult with the department as part of their planning process to determine how their particular facility should meet these requirements.

Sec. 133.168 Construction, Inspections and Approval of Project.

- This section contains a significant number of revisions of and additions to the rules regarding departmental oversight of a hospital construction project, as well as the obligations of the hospital or the architect of record throughout this process. Some of the requirements have been transferred (with changes) from the subsection of the old rules entitled “Construction and inspections” (see old 25 T.A.C. §133.167(e)). Hospitals should review these provisions carefully with their facility managers, architects and engineers. Hospitals also should consult with the department as part of their planning process to determine how their particular facility should meet these requirements.

Sec. 133.169 Tables.

- This section contains a significant number of revisions of and additions to the specification tables for various structural and physical-plant requirements in hospitals (e.g., nurses calling systems, sound transmission limits, flame spread and smoke production limits, and medical gas systems). Hospitals should review these provisions carefully with their facility managers, architects and engineers. Hospitals also should consult with the department as part of their planning process to determine how their particular facility should meet these requirements.

DISCLAIMER

Given the complexity and ever-changing nature of these regulations and their application and interpretation by state enforcement personnel, there may be omissions or inaccuracies in this comparative analysis. Any information in this comparative analysis is provided with the understanding that it is published for informational purposes only and should neither be considered as legal or professional advice nor used as such. As such, any information contained in this comparative analysis should not be used as a substitute for consultation with legal counsel or other professional advisors specifically retained for that purpose. The Texas Hospital Association, its affiliates, agents and employees assume no responsibility or liability, either express or implied, for errors or omissions of any kind in, or for the results obtained through, this comparative analysis. When dealing with specific legal matters, hospitals and others should seek advice from their retained counsel.