



Long-Term Care Regulatory Provider Letter

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| Number: PL 20-44 (replaces PL 20-38) |
| Title: COVID-19 Response - Expansion of Reopening Visitation |
| Provider Types: Nursing Facility (NF) |
| Date Issued: October 19, 2020 |

1.0 Subject and Purpose

As part of the continued reopening of the State of Texas, HHSC has adopted expanded emergency rules to allow for essential caregiver visits, salon services visits, and limited indoor and outdoor visitation in NFs. NFs are required to allow closed window visits, end-of-life visits, and visits of persons providing critical assistance, including essential caregivers for residents. NFs are also required to seek a visitation designation to allow additional general visitation. This letter describes the requirements for these visits. See the expansion of reopening visitation rules at 40 TAC §19.2803 for the complete list of requirements. Also, this letter replaces PL 20-38 and includes a new attestation form specifically designed for NFs.

2.0 Facility Visitation Designation Requirements

A NF must receive an approved general visitation designation from HHSC before it can begin permitting outdoor visits, indoor plexiglass visits, open window visits, and vehicle parades, and it must allow these types of visits upon receiving an approved visitation designation.

To receive an approved general visitation designation, a NF must:

- demonstrate that it has separate areas, units, wings, halls, or buildings designated for COVID-19 positive, COVID-19 negative, and unknown COVID-19 status resident cohorts;
- have separate, dedicated staff who work exclusively in the separate areas, units, wings, halls, or buildings;

- have no facility-acquired COVID-19 cases in residents for at least 14 consecutive days; and
- have no COVID-19 cases in staff working in the area, unit, wing, hall, or building that accommodates residents who are COVID-19 negative.

A NF must provide instructional signage throughout the facility and proper visitor education regarding:

- signs and symptoms of COVID-19;
- infection control precautions; and
- other applicable facility practices (e.g., the use of facemasks or other appropriate PPE, specified entries and exits, routes to designated visitation areas, and hand hygiene).

A NF that does not meet the criteria for a visitation designation must permit closed window visits and end-of-life visits for residents regardless of their COVID-19 status, as well as essential caregiver visits for residents with COVID-19 negative or unknown COVID-19 status. Such a NF must also develop and implement a plan to meet the visitation criteria and submit the plan to the regional director in the Long-term Care Regulation (LTCR) region where the NF is located within five business days of submitting the new 2197 Expansion of Reopening Visitation Status Attestation Form, or within five business days of receiving notification from HHSC that the NF was not approved for general visitation designation. See [section 11.0](#) of this document for information about LTCR Form 2197.

3.0 Plexiglass Indoor Visitation

Upon receiving an approved visitation designation and in accordance with the requirements in the expanded visitation rules, a NF must allow indoor plexiglass visits for all residents who are COVID-19 negative. Prior to using the plexiglass barrier or booth, the NF must submit a photo of it and its location in the facility for approval from HHSC. The plexiglass barrier or booth is not required to be constructed with three sides or to meet size specifications. It can be any layout and size that aids in infection prevention and control and is approved by HHSC.

The plexiglass barrier or booth must not be installed in an area of the facility where it:

- blocks or obstructs a means of egress (e.g., exit door, hallway, or the way out of a room);

- blocks or interferes with any fire safety equipment or system; or
- offers access to the rest of the facility or contact between the visitors and other residents.

During an indoor plexiglass visit, the NF must ensure:

- physical distancing of at least six feet is maintained between residents and visitors;
- visitors wear a facemask or face covering over both the mouth and nose throughout the visit;
- residents wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit; and
- both the visitor and the resident practice proper hand hygiene.

4.0 Open Window Visits

Upon receiving an approved visitation designation and in accordance with the requirements in the expanded visitation rules, a NF must allow open window visits for all residents who are COVID-19 negative. The NF must provide a comfortable and safe outdoor visiting area for open window visits, considering outside air temperatures and ventilation. During an open window visit, the NF must ensure:

- physical distancing of at least six feet is maintained between residents and visitors;
- visitors wear a facemask or face covering over both the mouth and nose throughout the visit;
- residents wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit; and
- both the visitor and the resident practice proper hand hygiene.

5.0 Vehicle Parades

Upon receiving an approved visitation designation and in accordance with the requirements in the expanded visitation rules, a NF must allow vehicle parades for all residents who are COVID-19 negative. The NF must provide a comfortable and safe outdoor visiting area for vehicle parades, considering outside air temperatures and ventilation. During a vehicle parade, the NF must ensure:

- visitors must remain in their vehicles throughout the parade;
- physical distancing of at least six feet is maintained between residents throughout the parade;

- residents are not closer than 10 feet to the vehicles for safety reasons; and
- residents wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

6.0 Outdoor Visits

Upon receiving an approved visitation designation and in accordance with the requirements in the expanded visitation rules, a NF must allow outdoor visits for all residents who are COVID-19 negative. The NF must provide a comfortable and safe outdoor visiting area for outdoor visits, considering outside air temperatures and ventilation. During an outdoor visit, the NF must ensure:

- physical distancing of at least six feet is maintained between residents and visitors;
- visitors wear a facemask or face covering over both the mouth and nose throughout the visit;
- residents wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit; and
- both the visitor and the resident practice proper hand hygiene.

7.0 Essential Caregiver Visits

An essential caregiver visit is defined as a personal visit between a resident and a designated essential caregiver, permitted in all facilities for COVID-19 negative and unknown COVID-19 status residents.

- NFs must allow essential caregiver visits.
- A NF does not need an approved general visitation designation from HHSC to allow essential caregiver visits.
- Up to two essential caregivers can be designated per resident, but each visit is limited to one essential caregiver at a time.
- Each essential caregiver visit must be by appointment and limited to two hours, unless the NF can only accommodate a visit for a shorter or longer amount of time and adjusts the length accordingly.
- Essential caregiver visits can occur outdoors, in the resident's bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other residents.

- The essential caregiver must be screened before being allowed to enter the facility and trained by the NF on the appropriate use of personal protective equipment (PPE).
- The resident must wear a facemask or cloth face covering over both the mouth and nose (if tolerated) throughout the visit.
- Essential caregivers do not have to maintain physical distancing between themselves and the resident they are visiting but must maintain physical distancing between themselves and other residents and staff.
- An essential caregiver visit is not allowed if the visitor has signs or symptoms of COVID-19, or an active COVID-19 infection, .

7.1 Requirements for Essential Caregiver Visits

The NF must:

- develop and enforce essential caregiver visitation policies and procedures as stated in each program's expanded emergency rules. This includes:
 - developing a testing strategy for essential caregiver visitors;
 - training the essential caregivers on the proper use of PPE; and
 - informing the essential caregivers of expectations related to infection control
- inform the essential caregivers of applicable policies, procedures, and requirements and maintain documentation of the essential caregiver's agreement to follow them;
- approve the essential caregiver visitor's facemask and any other appropriate PPE recommended by Centers for Disease Control and Prevention (CDC) guidance and the NF's policy; or provide a caregiver with an approved facemask and any other appropriate PPE;
- document the identity of each essential caregiver in the resident's file and create an essential caregiver badge;
- maintain a record of each essential caregiver visit. This includes:
 - the date and time of the arrival and departure;
 - the name of the essential caregiver;
 - the name of the resident being visited; and
 - attestation that the identity of the essential caregiver visitor

- was confirmed; and
- escort the essential caregiver visitor in and out of the designated visitation area; the visit itself does not need to be monitored by facility staff.

The essential caregiver visitor must:

- wear a facemask over both the mouth and nose and any other appropriate PPE recommended by CDC guidance and the NF's policy while in the facility;
- have had a negative COVID-19 test no more than 14 days before the first essential caregiver visit, unless the NF performs a rapid test prior to entry into the facility;
 - either an antigen or PCR test is acceptable; and
 - an antibody test is not acceptable;
- sign an agreement to leave the facility at the appointed time unless otherwise approved by the NF; and
- self-monitor for signs and symptoms of COVID-19.

Essential caregivers can be denied the right to visit if they fail to comply with all facility requirements.

8.0 End-of-life Visits

An end-of-life visit is a personal visit between a visitor and a resident who is at the end of life and is permitted in all facilities for all residents at the end of life. A NF must allow end-of-life visits for all residents with COVID-19 positive, COVID-19 negative, or unknown COVID-19 status. A NF does not need an approved general visitation designation from HHSC to allow end-of-life visits

9.0 Closed Window Visits

A closed window visit is a personal visit between a visitor and a resident during which the resident and visitor are separated by a closed window and the visitor does not enter the building. A NF must allow closed window visits for all residents with COVID-19 positive, COVID-19 negative, or unknown COVID-19 status. A NF does not need an approved general visitation designation from HHSC to allow closed window visits.

10.0 Salon Service Visits

A NF can allow a salon services visitor to enter the facility to provide services to a COVID-19 negative resident if the requirements in the expanded emergency rules are met, including screening of the barber or beautician. A NF does not need an approved general visitation designation from HHSC to allow salon services visits.

A salon services visit is not allowed if the visitor has signs or symptoms of COVID- 19, an active COVID-19 infection, or other communicable diseases, or if the resident has an active COVID-19 infection or unknown COVID-19 status.

11.0 LTCR Form 2197

Each NF must submit LTCR Form 2197 to the regional director in the LTCR region where the facility is located and must provide information about whether the NF meets or does not meet the criteria for expanded general visitation. Each NF was required to submit a completed form 2197 to the regional director no later than October 9, 2020. A NF submitting an attestation as of the date of this letter must not submit the previous versions of the attestation form – those are LTCR Forms 2192 or 2194.

A NF that does not meet the visitation designation criteria must attest that it:

- is permitting closed window visits, end of life visits, and essential caregiver visits;
- will develop and implement a plan to meet the visitation designation criteria as defined in 40 TAC §19.2803; and
- has included the plan with the 2197 form or will submit the plan within five business days of submitting the form.

To seek a designation for general visitation, a NF must complete LTCR Form 2197, Expansion of Reopening Visitation Status Attestation, to notify LTCR that the NF seeks a designation as a visitation facility. The form must be emailed to the LTCR regional director in the LTCR region where the facility is located. Any applicable pictures and facility maps also must be included with LTCR Form 2197.

The LTCR regional director or designee will review the form within three business days of submission and notify the NF whether it has been approved for a visitation designation. A NF with previous approval for visitation does not have to submit LTCR Form 2197 or other documentation unless the previous visitation approval has been withdrawn, rescinded, or cancelled, or was for only indoor or outdoor visitation instead of both indoor and outdoor visitation.

If approved, the NF must allow outdoor visits, indoor plexiglass visits, open window visits, and vehicle parades in accordance with the applicable emergency rule. HHSC LTCR can conduct an on-site visit to confirm a NF's compliance with the requirements. If HHSC determines that the NF does not meet the requirements for the designation as a visitation facility, the NF must immediately stop all visitation except a closed window visit, end-of-life visit, and visits by persons providing critical assistance, including designated essential caregivers.

The form also requires the facility administrator to attest to the following:

- the NF has had no confirmed COVID-19 cases in staff for at least 14 consecutive days in the specified areas, wings, units, or buildings;
- there are no active or facility-acquired COVID-19 cases in residents in the specified areas, wings, units, or buildings, and the NF has included a map indicating which areas, wings, units, or buildings accommodate COVID-19 negative, COVID-19 positive, and unknown COVID-19 status residents;
- no COVID-19 cases have occurred in the specified areas, wings, units, or buildings of the facility; or
- if there have been previous cases of COVID-19 among staff or residents, and HHSC LTCR has conducted a verification survey and confirmed the following:
 - all staff and residents in the specified areas, wings, units, or buildings have fully recovered;
 - the NF has adequate staffing to continue to care for all residents and to support the visits permitted under expanded visitation; and
 - the NF is in full compliance with infection control requirements and emergency rules related to COVID-19.

A NF must submit the form to the LTCR regional director in the region where it is located and not to any other HHSC unit or section, as this will delay approval.

A NF with a general visitation designation should be prepared to provide documentation upon HHSC request to demonstrate that it was COVID-19 free for 14 days prior to its request for the designation. NFs can provide COVID-19 testing results for the most recent 14-day period prior to the request for visitation designation.

If at any time after a visitation designation is approved by HHSC, the NF experiences an outbreak of COVID-19 in the area, wings, unit or building that accommodates residents who have COVID-19 negative status, the NF must notify the regional director in the LTCR region where it is located that the NF no longer meets visitation criteria, and the NF must immediately stop visitation except a closed window visit, end-of-life visit, or visits by persons providing critical assistance, including essential caregivers. The NF must submit a new request for designation when it again meets all criteria for general visitation.

Under Section 37.10 of the Texas Penal Code, a person commits a criminal offense if he or she makes a false entry in a governmental record; makes, presents, or uses any record or document with knowledge of its falsity and intent that it be taken as a genuine governmental record; or makes, presents, or uses a governmental record with knowledge of its falsity.

In addition, making a false statement on the attestation form can result in the imposition of an administrative penalty as described in Texas Health and Safety Code, Chapter 242, section 242.066(a).

12.0 Background/History

To protect residents in NFs, HHSC has adopted expanded emergency rules requiring limited indoor and outdoor visitation and identified essential caregiver visits as visits by persons providing critical assistance.

13.0 Resources

Contact Information for Submitting LTCR Form 2197 to the LTCR regional director: <https://hhs.texas.gov/about-hhs/find-us/long-term-care-regulatory-regional-contact-numbers>

LTCR Form 2197

Emergency rule in 40 TAC, Chapter 19, §19.2803

14.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules and Training Section by email at PolicyRulesTraining@hsc.state.tx.us or call (512) 438-3161.



LTCR FORM 2197: Expansion of Reopening Visitation Status Attestation Form for NF Only

SECTION 1: Facility Information

Instructions: Submit Form 2197 to your regional director to request designation as a visitation facility. You must wait for approval prior to implementing new expansion of reopening visitation protocols.

https://hhs.texas.gov/about-hhs/find-us/long-term-care-regulatory-regional-contact-numbers

Facility Type: Facility Name: Facility #/ID#: Contact Name: Contact #: Contact's Email: Address: Facility's County: Visitation Designation requested: List each wing, unit, area, or building for which you are requesting visitation designation below.

Indicate type of visitation:

- Outdoor visitation, open window visitation, and vehicle parades only - only a NF located in a county with a positivity rate greater than 10 percent ("red" county) may select this option
Indoor plexiglass booth and outdoor visitation (outdoor visitation, open window visitation, and vehicle parades)

If requesting outdoor visitation typed only, a NF must complete Section 2 and Section 4 of this form. Outdoor visitation includes general outdoor visits, open window visits and vehicle parades.

If requesting indoor plexiglass booth visitation, attach pictures of the existing booth, the location of the booth in the facility, and the building map that indicates where in the facility the booth is located.

Note: there may be more stringent restrictions from local authorities that prohibit visitation to a facility. The facility must follow the more stringent guidelines.

SECTION 2: NF meets the visitation designation criteria

Note: All NFs must offer visitation, per state and federal guidance. Complete Section 2 if your facility meets the visitation designation criteria. Complete [Section 3](#) if your facility does not meet visitation designation criteria. Visitation criteria from 40 TAC §19.2803(i) are listed in [Section 7](#) for your reference. All NFs must complete [Section 6](#), the signature section.

I hereby attest that:

- There have been no confirmed COVID-19 cases in facility staff for at least 14 consecutive days in the specified areas, wings, units or buildings.
- There are no active or facility-acquired COVID-19 cases in residents in the specified areas, wings, units or buildings.
- I have attached a facility map indicating which areas, wings, units or buildings accommodate COVID-19 negative, COVID-19 positive and unknown COVID-19 status residents.
- There is no local order prohibiting visitation in this facility.

I hereby further attest that either:

- There have been no confirmed COVID-19 cases in facility staff and/or residents in the in the specified areas, wings, units or buildings of the facility.

or

- There have been previous cases of COVID-19 in facility staff and/or residents in the specified areas, wings, units or buildings of the facility, and:
 - (A) all staff and/or residents in the specified areas, wings, units or buildings have fully recovered,
 - (B) the facility has adequate staffing to continue care for all residents and visits permitted in expansion of reopening visitation, and
 - (C) the facility is in compliance with infection control requirements and emergency rules related to COVID-19.

I understand that HHSC may verify this attestation through an onsite visit.

SECTION 3: NF DOES NOT meet visitation designation criteria

I hereby attest that:

I have attached a facility map indicating which areas, wings, units or buildings accommodate COVID-19 negative, COVID-19 positive and unknown COVID-19 status residents.

The facility does not currently meet the criteria for visitation designation as described in 40 TAC §19.2803(i).

and

The facility is permitting closed window visits, end-of-life visits and essential caregiver visits.

and

There is no local order prohibiting visitation in this facility.

I further attest that:

The facility has developed and implemented a plan to meet the visitation designation criteria as defined in 40 TAC §19.2803(i), and the plan is included with this form.

or

The facility will submit a plan to meet the visitation designation criteria defined in 40 TAC §19.2803(i) within five business days of submitting this form.

SECTION 4: NF unable to offer indoor plexiglass visitation - county positivity rate greater than 10 percent

A NF may only request visitation designation for outdoor visits, instead of outdoor and indoor plexiglass visits, if the county positivity rate is greater than 10 percent. If your facility is unable to offer indoor plexiglass visits due to of the county positivity rate, you must complete section 2 and section 4 of this form.

I hereby attest that:

My county positivity rate is: _____, which is greater than 10 percent, or is identified as a "red" county per the CMS county positivity rate spreadsheet.

and

My county positivity rate was obtained from:

The [CMS COVID-19 Nursing Home Data](#) website on: _____ [date]

or

The local county website at:

_____ [website address]

on: _____ [date]

I hereby further attest that:

I will submit a revised LTCR Form 2197 requesting both indoor plexiglass visitation and outdoor visitation within five business days of my county positivity rate being 10 percent or lower.

SECTION 5: NF unable to offer visitation because of local order

I hereby attest that:

There is a local order prohibiting visitation in this facility.

and

Once the local order is no longer in effect, I will resubmit LTCR Form 2197 and request visitation designation.

I hereby further attest that:

I have included a copy of the local order or the website where the local order can be viewed. _____

SECTION 6: Signature and HHSC Review

Name and title of NF administrator providing attestation:

Signature:

Date:

Email the form (and any applicable pictures, facility maps, and attachments) to the LTCR regional director in the LTCR region where the facility is located.

Approved by/date: _____

Denied, Reason for denial/date: _____

Note: there may be more stringent restrictions from local authorities that prohibit visitation to a facility. The facility must follow the more stringent guidelines.

SECTION 7: Rule References

For your reference, the visitation designation criteria are listed below.

- (i) To receive a facility visitation designation, a nursing facility must demonstrate that:
 - (1) it has separate areas, units, wings, halls, or buildings designated for COVID-19 positive, COVID-19 negative, and unknown COVID-19 status resident cohorts;
 - (2) separate dedicated staff are working exclusively in the separate areas, units, wings, halls, or buildings for residents who are COVID-19 positive, COVID-19 negative or unknown COVID-19 status;
 - (3) there have been no confirmed COVID-19 cases for at least 14 consecutive days in staff working in the area, unit, wing, hall, or building which accommodates residents who are COVID-19 negative;
 - (4) there have been no facility-acquired COVID-19 confirmed cases for at least 14 consecutive days in residents in the COVID-19 negative area, unit, wing, hall, or building;
 - (5) staff are designated to work with only one resident cohort and the designation does not change from one day to another; and
 - (6) if a nursing facility has had previous cases of COVID-19 in staff or residents in the area, unit, wing, hall, or building which accommodates residents who are COVID-19 negative, HHSC LTCR has conducted a verification survey and confirmed the following:
 - (A) all staff and residents in the COVID-19 negative area, unit, wing, hall, or building have fully recovered;
 - (B) the nursing facility has adequate staffing to continue care for all residents and supervise visits permitted by this section; and
 - (C) the nursing facility is in compliance with infection control requirements and emergency rules related to COVID-19.