



**DEPARTMENT OF
STATE HEALTH SERVICES
REGULATORY LICENSING UNIT
FACILITY LICENSING GROUP**

**TITLE 25
TEXAS ADMINISTRATIVE CODE
CHAPTER 131
FREESTANDING EMERGENCY MEDICAL
CARE FACILITIES
LICENSING RULES**

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SUBCHAPTER A. GENERAL PROVISIONS.

§131.1. Purpose.

(a) The purpose of this chapter is to implement Health and Safety Code, Chapter 254, which requires freestanding emergency medical care facilities to be licensed by the Department of State Health Services.

(b) This chapter provides procedures for obtaining a freestanding emergency medical care facility license; minimum standards for freestanding emergency medical care facility functions and services; patient rights standards; discrimination or retaliation standards; patient transfer and other policy and protocol requirements; reporting, posting and training requirements relating to abuse and neglect; standards for voluntary agreements; inspection and investigation procedures; enforcement standards; fire prevention and protection requirements; general safety standards; physical plant and construction requirements; and standards for the preparation, submittal, review and approval of construction documents.

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

§131.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act--Health and Safety Code, Chapter 254, titled Freestanding Emergency Medical Care Facilities.

(2) Action plan--A written document that includes specific measures to correct identified problems or areas of concern; identifies strategies for implementing system improvements; and includes outcome measures to indicate the effectiveness of system improvements in reducing, controlling or eliminating identified problem areas.

(3) Administrator--A person who is a physician, is a registered nurse, has a baccalaureate or postgraduate degree in administration or a health-related field, or has one year of administrative experience in a health-care setting.

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

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

(6) Applicant--A person who seeks a freestanding emergency medical care facility license from the department and who is legally responsible for the operation of the freestanding emergency medical care facility, whether by lease or ownership.

(7) Certified registered nurse anesthetist (CRNA)--A registered nurse who has current certification from the Council on Certification of Nurse Anesthetists and who is currently authorized to practice as an advanced practice registered nurse by the Texas Board of Nursing.

(8) Change of ownership--Change in the person legally responsible for the operation of the facility, whether by lease or by ownership.

(9) Department--The Department of State Health Services.

(10) Designated provider--A provider of health care services, selected by a health maintenance organization, a self-insured business corporation, a beneficial society, the Veterans Administration, TRICARE, a business corporation, an employee organization, a county, a public hospital, a hospital district, or any other entity to provide health care services to a patient with whom the entity has a contractual, statutory, or regulatory relationship that creates an obligation for the entity to provide the services to the patient.

(11) Disposal--The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste (containerized or uncontainerized) into or on any land or water so that solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharge into any waters, including groundwaters.

(12) Emergency care--Health care services provided in a freestanding emergency medical care facility to evaluate and stabilize a medical condition of a recent onset and severity, including severe pain, psychiatric disturbances, or symptoms of substance abuse, that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that the person's condition, sickness, or injury is of such a nature that failure to get immediate medical care could result in:

(A) placing the person's health in serious jeopardy;

(B) serious impairment to bodily functions;

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

(D) serious disfigurement; or

(E) in the case of a pregnant woman, serious jeopardy to the health of the woman or fetus.

(13) Facility--A freestanding emergency medical care facility.

(14) Freestanding Emergency Medical Care Facility--A facility that is structurally separate and distinct from a hospital and which receives an individual and provides emergency care as defined in paragraph (12) of this section.

(15) Hospital--A facility that is licensed under the Texas Hospital Licensing Law, Health and Safety Code, Chapter 241, or if exempt from licensure, certified by the United States Department of Health and Human Services as in compliance with the conditions of participation for hospitals in Title XVIII, Social Security Act (42 United States Code, §§1395 et seq.), or owned and operated by the state of Texas.

(16) Governing body--The governing authority of a freestanding emergency medical care facility which is responsible for a facility's organization, management, control, and operation, including appointment of the medical staff; and includes the owner or partners for a freestanding emergency medical care facility owned or operated by an individual or partners or corporation.

(17) Freestanding emergency medical care facility administration--Administrative body of a freestanding emergency medical care facility headed by an individual who has the authority to represent the facility and who is responsible for the operation of the facility according to the policies and procedures of the facility's governing body.

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

(19) Licensee--The person or governmental unit named in the application for issuance of a facility license.

(20) Medical director--A physician who is board certified or board eligible in emergency medicine, or board certified in primary care with a minimum of two years of emergency care experience.

(21) Medical staff--A physician or group of physicians, a podiatrist or group of podiatrists, and a dentist or group of dentists who by action of the governing body of a facility are privileged to work in and use the facilities.

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

(A) a corporation;

(B) a governmental unit;

(C) a limited liability company;

(D) an individual;

(E) a partnership if a partnership name is stated in a written partnership agreement

or an assumed name certificate;

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

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

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

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

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

(26) Physician assistant--A person licensed as a physician assistant by the Texas State Board of Physician Assistant Examiners.

(27) Practitioner--A health care professional licensed in the State of Texas, other than a physician, podiatrist, or dentist. A practitioner shall practice in a manner consistent with their underlying practice act.

(28) Premises--A building where patients receive emergency services from a freestanding emergency medical care facility.

(29) Presurvey conference--A conference held with department staff and the applicant or the applicant's representative to review licensure rules and survey documents and provide consultation before the on-site licensure inspection.

(30) Quality assessment and performance improvement (QAPI)--An ongoing program that measures, analyzes, and tracks quality indicators related to improving health outcomes and patient care emphasizing a multidisciplinary approach. The program implements improvement plans and evaluates the implementation until resolution is achieved.

(31) Registered nurse (RN)--A person who is currently licensed by the Texas Board of Nursing as a registered nurse.

(32) Stabilize--To provide necessary medical treatment of an emergency medical condition to ensure, within reasonable medical probability, that the condition is not likely to deteriorate materially from or during the transfer of the individual from a facility.

(33) Transfer--The movement (including the discharge) of an individual outside a facility at the direction of and after personal examination and evaluation by the facility physician. Transfer does not include the movement outside a facility of an individual who has been declared dead or who leaves the facility without the permission of the facility physician.

(34) Transfer agreement--A referral, transmission or admission agreement with a hospital licensed in this state.

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

(36) Violation--Failure to comply with the Act, a rule or standard, special license provision, or an order issued by the commissioner of state health services or the commissioner's designee, adopted or enforced under the Act.

SUBCHAPTER B. LICENSING REQUIREMENTS.

§131.21. General.

(a) License required.

(1) Not later than September 1, 2010, a freestanding emergency medical care facility shall obtain a license.

(2) After August 31, 2010, except as provided in §131.23 of this title (related to Exemptions from Licensure), a person may not establish or operate a freestanding emergency medical care facility in this state without a license issued by the department.

(3) Except as provided in paragraph (2) of this subsection, a facility or person shall not hold itself out to the public as a freestanding emergency medical care facility or advertise, market, or otherwise promote the services using the terms “emergency,” “ER,” or any similar term that would give the impression that the facility or person is providing emergency care.

(4) Upon written request, the department shall furnish a person with an application for a facility license. Applications may also be obtained from the department’s web site.

(5) The license application shall be submitted in accordance with §131.25 of this title (relating to Application and Issuance of Initial License). The applicant shall retain copies of all application documents submitted to the department.

(b) A facility shall comply with the provisions of the Act and this chapter during the licensing period.

(c) Scope of facility license.

(1) Each separate facility location shall have a separate license.

(2) A facility license is issued for the premises and person or governmental unit named in the application.

(3) A facility shall not have more than one health facility license for the same physical address. The premises of a facility license shall be separated from any other occupancy or licensed health facility by a minimum of a one-hour fire rated wall.

(4) A facility license authorizes only emergency care services and those procedures that are related to providing emergency care.

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

(e) A facility license shall not be altered.

(f) A facility license shall not be transferred or assigned. The facility shall comply with the provisions of §131.28 of this title (relating to Change of Ownership) in the event of a change in the ownership of a facility.

(g) Changes which affect the license.

(1) A facility shall notify the department in writing before the occurrence of any of the following:

(A) request to change license classification;

(B) any construction, renovation, or modification of the facility buildings;

and

(C) cessation of operation of the facility.

(2) A facility shall notify the department in writing not later than the 10th calendar day after the effective date of the change of any of the following:

(A) change in certification or accreditation status; and

(B) change in facility name, mailing address, telephone number, or administrator.

(3) A facility that becomes inactive or closes shall meet the requirements set forth in §131.27 of this title (relating to Inactive Status and Closure).

§131.22. Classifications of Facilities.

(a) There shall be two classifications of facilities related to hours of operation.

(1) Facilities that are in continuous operation 24 hours per day and 7 days per week; and

(2) facilities that are in operation 7 days per week and at least 12 hours per day.

(b) A facility that is not in continuous operation 24 hours per day and 7 days per week shall not be issued a license with a term that extends beyond August 31, 2013.

(c) A facility that is not in continuous operation shall display a clearly visible sign that:

(1) indicates whether the facility is open or closed;

(2) provides information regarding the facility's operating hours; and

(3) provides clear instructions directing a patient to an emergency room in a licensed hospital or a freestanding emergency room classified as a facility that is in continuous operation within 10 miles of the facility that is not in continuous operation.

(d) A facility that is not in continuous operation shall not advertise, market, or otherwise promote the services provided by the facility using the terms "emergency" or "ER." This requirement shall be effective September 1, 2012, or by the second anniversary of the date the facility is issued a license, whichever date is earlier.

§131.23. Exemptions from Licensure.

The following facilities are not required to be licensed under this chapter:

(1) an office or clinic owned and operated by a manufacturing facility solely for the purposes of treating its employees and contractors;

(2) temporary emergency clinics in disaster areas;

(3) an office or clinic of a licensed physician, dentist, optometrist, or podiatrist;

(4) a licensed nursing home;

(5) a licensed hospital;

(6) a hospital that is owned and operated by this state;

(7) a facility located within or connected to a hospital described by paragraph (5) or (6) of this section;

(8) a facility that is owned or operated by a hospital described by paragraph (5) or (6) of this section and is:

(A) surveyed as a service of the hospital by an organization that has been granted deeming authority as a national accreditation program for hospitals by the Centers for Medicare and Medicaid Services; or

(B) granted provider-based status by the Centers for Medicare and Medicaid Services; or

(9) a licensed ambulatory surgical center.

§131.24. Unlicensed Facilities.

(a) If the department has reason to believe that a person or facility may be providing emergency medical care services as defined in this chapter without a license on or after September 1, 2010, the department shall so notify the person or facility in writing by certified mail, return receipt requested. The notified facility shall submit to the department the following information not later than the twentieth calendar day after the date the facility receives the notice:

(1) an application for a license and the nonrefundable license fee;

(2) a claim for exemption under §131.23 of this title (relating to Exemptions from Licensure); or

(3) documentation necessary to establish that freestanding emergency medical care services are not being provided. Documentation shall include a notarized statement attesting to the fact that freestanding emergency medical care services are not provided and a statement of the types of services that are provided.

(b) If the person or facility has submitted an application for a license, the application shall be processed in accordance with §131.25 of this title (relating to Application and Issuance of Initial License).

(c) If the person or facility submits a claim for exemption, the exemption claim shall be processed in accordance with §131.23 of this title.

(d) If the person or facility submits sufficient documentation to establish that the facility does not provide freestanding emergency medical services, the department shall so notify the person or facility in writing within 30 calendar days that no license is required. If the department determines that the documentation submitted is insufficient, the department shall notify the person or facility in writing. The person or facility shall have the opportunity to respond not later than the 10th calendar day after the date the facility receives the notice. Not later than the

10th calendar day after the date the department receives the facility's response, if any, the department shall notify the person or facility in writing of the department's determination.

§131.25. Application and Issuance of Initial License.

(a) All first-time applications for licensing are applications for an initial license, including applications from unlicensed operational facilities and licensed facilities for which a change of ownership or relocation is anticipated.

(b) Upon written or oral request, the department shall furnish a person with an application form for a facility license. Applications may also be obtained from the department's web site.

(c) The applicant shall submit the completed original application, the information required in subsection (d) of this section, and the nonrefundable license fee to the department before the projected opening date of the facility.

(d) The applicant shall disclose to the department the following, if applicable:

(1) the name, address, and social security number of the owner or sole proprietor, if the owner of the facility is a sole proprietor;

(2) the name, address, and social security number of each general partner who is an individual, if the facility is a partnership;

(3) the name, address, and social security number of any individual who has an ownership interest of more than 25% in the corporation, if the facility is a corporation;

(4) the name, Texas license number, and license expiration date of any physician licensed by the Texas Medical Board and who has a financial interest in the facility or in any entity that has an ownership interest in the facility;

(5) the name, Texas license number, and license expiration date of the medical chief of staff;

(6) the name, Texas license number, and license expiration date of the director of nursing of the facility;

(7) the affirmation that at least one physician licensed in the State of Texas and at least one registered nurse licensed in the State of Texas are on site during all hours of operation;

(8) the following information concerning the applicant, the applicant's affiliates, and the managers of the applicant:

(A) denial, suspension, probation, or revocation of a facility license in any state, a license for any health care facility, or a license for a home and community support

services agency in any state; or any other enforcement action, such as (but not limited to) court civil or criminal action in any state;

(B) denial, suspension, probation, or revocation of or other enforcement action against a facility license in any state, a license for any health care facility in any state, or a license for a home and community support services agency in any state which is or was proposed by the licensing agency and the status of the proposal;

(C) surrendering a license before expiration of the license or allowing a license to expire in lieu of the department's proceeding with enforcement action;

(D) federal or state (any state) criminal felony arrests or convictions;

(E) Medicare or Medicaid sanctions or penalties relating to the operation of a health care facility or home and community support services agency;

(F) operation of a health care facility or home and community support services agency that has been decertified or terminated from participation in any state under Medicare or Medicaid; or

(G) debarment, exclusion, or contract cancellation in any state from Medicare or Medicaid;

(9) for the two-year period preceding the application date, the following information concerning the applicant, the applicant's affiliates, and the managers of the applicant:

(A) federal or state (any state) criminal misdemeanor arrests or convictions;

(B) federal or state (any state) tax liens;

(C) unsatisfied final judgments;

(D) eviction involving any property or space used as a health care facility in any state;

(E) injunctive orders from any court; or

(F) unresolved final federal or state (any state) Medicare or Medicaid audit exceptions;

(10) whether the facility has applied for certification under Title XVIII of the Social Security Act (42 United States Code, §§1395 et seq.);

(11) the number of emergency treatment stations;

(12) a copy of the facility's patient transfer policy and procedure for the immediate transfer to a hospital of patients requiring emergency care beyond the capabilities of the facility which is developed in accordance with §131.66 of this title (relating to Patient Transfer Policy) and is signed by both the chairman and secretary of the governing body attesting to the date the policy was adopted by the governing body and the effective date of the policy;

(13) a copy of the facility's memorandum of transfer form, which contains at a minimum the information described in §131.66 of this title;

(14) a copy of a written agreement the facility has with a hospital which provides for the prompt transfer to and the admission by the general hospital of any patient when services are needed but are unavailable or beyond the capabilities of the facility in accordance with §131.67 of this title (relating to Patient Transfer Agreements); and

(15) a copy of a fire safety survey indicating approval by the local fire authority in whose jurisdiction the hospital is based that is dated no earlier than one year prior to the opening date of the facility.

(e) All documents submitted to the department shall be originals, unless otherwise indicated. The address provided on the application shall be the physical location at which the facility is or will be operating.

(f) Upon receipt of the application, the department shall review the application to determine whether it is complete.

(g) The applicant or the applicant's representative shall attend a presurvey conference at the office designated by the department. The designated survey office may waive the presurvey conference requirement.

(h) After a presurvey conference has been held or waived at the department's discretion and the facility has received an approved architectural inspection conducted by the department, the department may issue a license to a facility to provide freestanding emergency medical care services in accordance with this chapter.

(i) When the department determines that the facility is in compliance with subsections (c) - (e) of this section, the department shall issue the license to the applicant.

(j) The license shall be effective on the date the facility is determined to be in compliance with subsections (c) - (e) of this section.

(1) If the effective date of the license is the first day of a month, the license expires on the last day of the 11th month after issuance.

(2) If the effective date of the license is the second or any subsequent day of a month, the license expires on the last day of the 12th month after issuance.

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

(l) During the initial licensing period, the department shall conduct a survey of the facility to ascertain compliance with the provisions of the Act and this chapter.

(1) The facility shall request that an on-site survey be conducted after the facility has provided services to a minimum of one patient.

(2) The facility shall be providing services at the time of the survey.

(3) If the facility has applied to participate in the federal Medicare program, the Medicare survey may be conducted in conjunction with the licensing survey.

§131.26. Application and Issuance of Renewal License.

(a) The department shall send written notice of expiration of a license to an applicant at least 60 calendar days before the expiration date. If the applicant has not received notice, it is the duty of the applicant to notify the department and request a renewal application.

(b) The facility shall submit the following to the department no later than the 30th calendar day before the expiration date of the license:

(1) a completed renewal application form;

(2) a nonrefundable license fee;

(3) a copy of a fire safety survey indicating approval by the local fire authority in whose jurisdiction the facility is based. The fire safety survey shall be conducted annually and both surveys shall be submitted; and

(4) if the facility is accredited by the Joint Commission or other accrediting organization, documented evidence of current accreditation status.

(c) The department shall issue a renewal license to a facility that submits a renewal application in accordance with subsection (b) of this section and meets the minimum standards for a license set forth in this chapter.

(d) Renewal licenses shall be valid for one year.

(e) If the applicant fails to timely submit an application and fee in accordance with subsection (b) of this section, the department shall notify the applicant that the facility shall cease

providing freestanding emergency medical care services. If the applicant can provide the department with sufficient evidence that the submission was completed in a timely manner and all dates were adhered to, the cease to perform shall be dismissed. If the applicant cannot provide sufficient evidence, the applicant shall immediately thereafter return the license by certified mail.

(f) If a license expires and an applicant wishes to provide freestanding emergency medical care services after the expiration date of the license, the applicant shall reapply for a license under §131.25 of this title (relating to Application and Issuance of Initial License).

§131.27. Inactive Status and Closure.

(a) The department will automatically retire the license of a facility in which services are suspended or not provided for more than 60 calendar days, unless the facility sends a written request to place the license on inactive status. To be eligible for inactive status, the facility must be in good standing with no pending legal actions or investigations.

(1) If the department grants a facility's request to place its license on inactive status, inactive status is limited to 60 calendar days. The licensee is responsible for all licensure fees and for proper maintenance of patient records while on inactive status.

(2) To reactivate the license, the facility shall submit a written request to reactivate the license no later than the date on which the inactivation period expires.

(3) If the license is not reactivated, the department will automatically retire the license at the end of the 60-day deactivation period.

(b) A facility shall notify the facility licensure department in writing before closure of the facility.

(1) The facility shall dispose of medical records in accordance with §131.53 of this title (relating to Medical Records).

(2) The facility shall appropriately discharge or transfer all patients before the facility closes.

(3) A license becomes invalid when a facility closes. The facility shall return the licensure certificate to the facility licensure department not later than the 30th calendar day after the facility closes.

§131.28. Change of Ownership.

(a) When a facility plans to change its ownership, the new owner shall submit an application for an initial license and nonrefundable fee to the department at least 30 calendar days before the date of the change of ownership. The application shall be in accordance with §131.25 of this title (relating to Application and Issuance of Initial License).

(b) In addition to the documents required in §131.25 of this title, the applicant shall submit a copy of the signed bill of sale or lease agreement that reflects the effective date of the sale or lease.

(c) The applicant is not required to submit a transfer agreement that the department has previously approved if the applicant notifies the department in writing that it has adopted the transfer agreement.

(d) A facility is not required to submit an application for change of ownership if the facility changes only its name. If a facility changes its name, the facility must notify the department not later than the 10th calendar day after the effective date of the change.

(e) The department may waive the on-site construction and health inspections required by §131.81 of this title (relating to Inspection and Investigation Procedures).

(f) When the new owner has complied with the provisions of §131.25 of this title, the department shall issue a license that shall be effective the date of the change of ownership.

(g) The expiration date of the license shall be in accordance with §131.25 of this title.

(h) The previous owner's license shall be void on the effective date of the new owner's license.

§131.29. Conditions of Licensure.

(a) A facility license is issued only for the premises and person or governmental unit named on the application.

(b) A facility license is issued for a single physical location, and shall not include multiple buildings or offsite locations.

(c) No license may be transferred or assigned from one person to another person.

(d) No license may be transferred from one facility location to another.

(e) If a facility is relocating, the facility shall complete and submit a license application and nonrefundable fee at least 30 calendar days before relocation of the facility. The application shall be processed in accordance with §131.25 of this title (relating to Application and Issuance of Initial License). An initial license for the relocated facility shall be effective on the date the relocation occurred. The previous license shall be void on the date of relocation.

(f) A facility that changes its telephone number shall send the department written notice of the change not later than the 30th calendar day after the number has changed.

(g) If the name of a facility is changed, the facility shall notify the department in writing not later than the 30th calendar day after the effective date of the name change.

§131.30. Time Periods for Processing and Issuing Licenses.

(a) General.

(1) The date a license application is received is the date the application reaches the department.

(2) An application for an initial license is complete when the department has received, reviewed, and found acceptable the information described in §131.25 of this title (relating to Application and Issuance of Initial License).

(3) An application for a renewal license is complete when the department has received, reviewed, and found acceptable the information described in §131.26 of this title (relating to Application and Issuance of Renewal License).

(b) Time Periods. An application from a facility for an initial license or a renewal license shall be processed in accordance with the following time periods.

(1) The first time period begins on the date the department receives the complete application and ends on the date the license is issued. The first time period is 45 calendar days.

(2) If the department receives an incomplete application, the first time period ends on the date the department issues a written notice to the facility that the application is incomplete. The written notice shall describe the specific information that is required before the application is considered complete.

(3) For incomplete applications, the second time period begins on the date the last item necessary to complete the application is received and ends on the date the license is issued. The second time period is 45 calendar days.

(c) Reimbursement of fees.

(1) In the event the application is not processed in the time periods stated in subsection (b) of this section, the applicant has the right to request that the department reimburse in full the fee paid in that particular application process. If the department does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the department shall deny the request.

(2) Good cause for exceeding the period established is considered to exist if:

(A) the number of applications for licenses to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding year;

(B) another public or private entity utilized in the application process caused the delay; or

(C) other conditions existed giving good cause for exceeding the established periods.

(d) If the request for reimbursement as authorized by subsection (c) of this section is denied, the applicant may then appeal to the commissioner for a resolution of the dispute. The applicant shall give written notice to the commissioner requesting reimbursement of the fee paid because the application was not processed within the established time period. The department shall submit a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner shall make the final decision and provide written notification of the decision to the applicant and the department.

(e) If a hearing is proposed during the processing of the application, the hearing shall be conducted under Government Code, Chapter 2001, Administrative Procedure Act; Chapter 1, Subchapter B of this title (relating to Formal Hearing Procedures; and 1 TAC, Chapter 155, (relating to Rules of Procedure).

§131.31. Fees.

(a) The fee for an initial license (includes change of ownership or relocation) is \$7,410. The license term is one year.

(b) The fee for a renewal license is \$3,035. The license term is one year.

(c) The department shall not consider an application as officially submitted until the applicant pays the application fee and submits the application form.

(d) Fees paid to the department are not refundable, except as indicated in §131.30 of this title (relating to Time Periods for Processing and Issuing Licenses).

(e) All fees shall be paid to the department.

(f) The department will review its fee schedule periodically. If adjustments are necessary to meet expenses, the department will amend fees through rulemaking.

(g) The department is authorized to collect subscription and convenience fees, in amounts determined by the TexasOnline Authority, to recover costs associated with application and renewal application processing through TexasOnline, in accordance with Government Code, §2054.111 and §2054.252.

SUBCHAPTER C. OPERATIONAL REQUIREMENTS.

§131.41. Operational Standards.

(a) The facility shall have an identified governing body fully responsible for the organization, management, control, and operation of the facility, including the appointment of

the facility's medical director. The medical director shall be board certified or board eligible in emergency medicine, or board certified in primary care with a minimum of two years emergency care experience.

(b) The governing body shall adopt, implement, and enforce written policies and procedures for the total operation and all services provided by the facility.

(c) The governing body shall be responsible for all services furnished in the facility, whether furnished directly or under contract. The governing body shall ensure that services are provided in a safe and effective manner that permits the facility to comply with all applicable rules and standards.

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

(e) The governing body shall address and is fully responsible, either directly or by appropriate professional delegation, for the operation and performance of the facility. Governing body responsibilities include, but are not limited to:

(1) determining the mission, goals, and objectives of the facility;

(2) ensuring that facilities and personnel are adequate and appropriate to carry out the mission;

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

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

(5) adopting, implementing, and enforcing bylaws or similar rules and regulations for the orderly development and management of the facility;

(6) adopting, implementing, and enforcing policies or procedures necessary for the orderly conduct of the facility;

(7) reviewing and approving the facility's training program for staff;

(8) ensuring that all equipment utilized by facility staff or by patients is properly used and maintained per manufacturer recommendations;

(9) adopting, implementing, and enforcing policies or procedures related to emergency planning and disaster preparedness. The governing body shall review the facility's disaster preparedness plan at least annually;

(10) ensuring there is a quality assessment and performance improvement (QAPI) program to evaluate the provision of patient care. The governing body shall review and monitor QAPI activities quarterly;

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

(12) maintaining effective communication throughout the facility;

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

(14) adopting, implementing, and enforcing policies for the provision of radiological services;

(15) adopting, implementing, and enforcing policies for the provision of laboratory services;

(16) adopting, implementing, and enforcing policies for the provision of pharmacy services;

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

(18) adopting, implementing, and enforcing a policy on the rights of patients and complying with all state and federal patient rights requirements;

(19) adopting, implementing, and enforcing policies for the provision of an effective procedure for the immediate transfer to a licensed hospital of patients requiring emergency care beyond the capabilities of the facility. All facilities must have a transfer agreement with a hospital licensed in this state as a requirement for licensure as defined in §131.67 of this title (relating to Patient Transfer Agreements);

(20) adopting, implementing, and enforcing policies for all individuals that arrive at the facility to ensure they are provided an appropriate medical screening examination within the capability of the facility, including ancillary services routinely available to determine whether or not the individual needs emergency care as defined in §131.2 of this title (relating to Definitions). If emergency care is determined to be needed, the facility shall provide any necessary stabilizing treatment or arrange an appropriate transfer the individual as defined in §131.66 of this title (relating to Patient Transfer Policy);

(21) adopting, implementing, and enforcing a policy to ensure that the facility shall remain open when necessary to continue appropriate patient care or services. This policy shall apply to a patient who is under the care of the facility, and shall ensure that the patient's course of treatment at the facility is completed, regardless of the facility's hours of operation;

(22) approving all major contracts or arrangements affecting the medical care provided under its auspices, including, but not limited to, those concerning:

(A) the employment of physicians and practitioners;

(B) the use of external laboratories;

(C) an effective procedure for obtaining emergency laboratory, radiology, and pharmaceutical services when these services are not immediately available due to system failure;

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

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

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

(26) reviewing and approving the Patient Safety Program; and

(27) developing a system of risk management appropriate to the facility, including, but not limited to:

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

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

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

(D) evaluation of patient complaints.

(f) The governing body shall provide for full disclosure of ownership to the department.

(g) The governing body shall meet at least annually and keep minutes or other records necessary for the orderly conduct of the facility. Meetings held by the facility governing body shall be separate meetings with separate minutes from any other governing body meeting.

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

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

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

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

(l) The governing body shall adopt, implement, and enforce written policies to ensure compliance with applicable state and federal laws.

(m) The facility shall assess and the governing body shall review patient satisfaction with services and environment no less than annually.

§131.42. Administration.

(a) Administrative policies, procedures, and controls shall be adopted, implemented, and enforced to ensure the orderly and efficient management of the facility. Administrative responsibilities shall include, but are not limited to:

(1) enforcing policies delegated by the governing body;

(2) employing qualified management personnel;

(3) long-range and short-range planning for the needs of the facility, as determined by the governing body;

(4) using methods of communicating and reporting, designed to ensure the orderly flow of information within the facility;

(5) controlling the purchase, maintenance, and distribution of the equipment, materials, and facilities of the facility;

(6) establishing lines of authority, accountability, and supervision of personnel;

(7) establishing controls relating to the custody of the official documents of the facility; and

(8) maintaining the confidentiality, security, and physical safety of data on patients and staff.

(b) Personnel policies shall be adopted, implemented, and enforced to facilitate attainment of the mission, goals, and objectives of the facility. Personnel policies shall:

- (1) define and delineate functional responsibilities and authority;
 - (2) require the employment of personnel with qualifications commensurate with job responsibilities and authority, including appropriate licensure or certification;
 - (3) require documented periodic appraisal of each person's job performance;
 - (4) specify responsibilities and privileges of employment;
 - (5) be made known to employees at the time of employment; and
 - (6) provide and document adequate orientation and training to familiarize all personnel with the facility's policies, procedures, equipment, and facilities.
- (c) A facility shall include all employee categories in personnel policies and shall develop appropriate job descriptions.

§131.43. Medical Director.

- (a) The medical director shall be on-site at the facility when necessary to fulfill the responsibilities of the position, as described by these rules and the governing body.
- (b) Notwithstanding subsection (a) of this section, each facility's medical director shall be on-site at the facility for a minimum of 12 hours per month.
- (c) The medical director's responsibilities shall include:
 - (1) organizing the emergency services to be provided at the facility;
 - (2) supervising and overseeing the infection control program, quality assessment and performance improvement program, and patient safety program; and
 - (3) regularly attending meetings of the infection control program, quality assessment and performance improvement program, and patient safety program.
- (d) The medical director shall have the authority to contract with outside persons for the performance of the facility's peer review activities as necessary.

§131.44. Medical Staff.

- (a) The medical staff shall periodically conduct appraisals of its members according to medical staff bylaws.

(b) The medical staff shall examine credentials of candidates for medical staff membership and make recommendations to the governing body on the appointment of the candidate.

(c) The medical staff shall be well-organized and accountable to the governing body for the quality of the medical care provided to patients.

(1) The medical staff shall be organized in a manner approved by the governing body.

(2) If the medical staff has an executive committee, the members of the committee shall be doctors of medicine or osteopathy.

(3) The facility shall maintain records of medical staff meetings.

(4) The responsibility for organization and conduct of the medical staff shall be assigned only to an individual physician.

(5) Each medical staff member shall sign a statement signifying that he or she will abide by medical staff and facility policies.

(d) The medical staff shall adopt, implement, and enforce written bylaws, rules, and regulations to carry out its responsibilities. The bylaws shall:

(1) be approved by the governing body;

(2) include a statement of the duties and privileges of each category of medical staff (e.g., active, courtesy, consultant);

(3) describe the organization of the medical staff;

(4) describe the qualifications to be met by a candidate in order for the medical staff to recommend that the candidate be appointed by the governing body; and

(5) include criteria for determining the privileges to be granted and a procedure for applying the criteria to individuals requesting privileges. To be privileged, a physician must have a minimum of one year experience in emergency services, and current certification in advanced cardiac life support, pediatric advanced life support, and advanced trauma life support.

§131.45. Facility Staffing and Training.

(a) A facility shall have personnel qualified to operate emergency equipment and to provide emergency care to patients on site and available at all treatment times.

(b) Nursing services.

(1) There shall be an organized nursing service under the direction of a qualified registered nurse (RN). The facility shall be staffed to ensure that the nursing needs of all patients are met.

(2) There shall be a written plan of administrative authority for all nursing services with responsibilities and duties of each category of nursing personnel delineated and a written job description for each category. The scope of nursing services shall be limited to nursing care rendered to patients as authorized by the Nursing Practice Act, Occupations Code Chapter 301.

(A) The responsible individual for nursing services shall be a qualified RN whose responsibility and authority shall be clearly defined and shall include supervision of both personnel performance and patient care.

(B) There shall be a written delineation of functions, qualifications, and patient care responsibilities for all categories of nursing personnel.

(C) Nursing services shall be provided in accordance with current recognized standards or recommended practices.

(3) There shall be an adequate number of RNs on duty to meet minimum staff requirements to include supervisory and staff RNs to ensure the immediate availability of an RN for emergency care or for any patient when needed.

(4) There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the service of an RN. An RN shall assign the nursing care of each patient to other nursing personnel in accordance with the patient's needs and the preparation and qualifications of the nursing staff available.

(5) An RN qualified, at a minimum, with current certification in advanced cardiac life support and Pediatric Advanced Life Support shall be on duty and on the premises at all times whenever patients are present in the facility.

(6) All direct care staff members shall maintain current certification and competency in Basic Cardiac Life Support.

(c) In addition to meeting the requirements for nursing staff under subsection (b) of this section, facilities shall comply with the following minimum staffing requirements.

(1) Facilities that provide only topical anesthesia, local anesthesia, or minimal sedation are required to have a second individual on duty on the premises who is trained and currently certified in basic cardiac life support until all patients have been discharged from the facility.

(2) Facilities that provide moderate sedation/analgesia are required to have the following additional staff:

(A) a second individual on duty on the premises who is trained and currently certified in basic cardiac life support until all patients have been discharged from the facility; and

(B) an individual trained and currently certified in advanced cardiac life support and pediatric advanced life support shall be available until all patients have been discharged.

(3) Facilities that provide deep sedation/analgesia and/or regional anesthesia shall have the following additional staff:

(A) a second individual on duty on the premises who is trained and currently certified in basic cardiac life support until all patients have been discharged from the facility; and

(B) an individual who is trained and currently certified in advanced cardiac life support and pediatric advanced life support shall be on duty on the premises and sufficiently free of other duties to enable the individual to respond rapidly to emergency situations until all patients have been discharged.

§131.46. Emergency Services.

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

(b) The organization of the emergency services shall be appropriate to the scope of the services offered. The services shall be organized under the direction of a qualified physician member of the medical staff who is the medical director or clinical director.

(c) A facility shall maintain patient medical records for all emergency patients. The medical records shall contain patient identification, complaints, name of physician, name of nurse, time admitted to the emergency suite, treatment, time discharged, and disposition.

(d) Personnel.

(1) There shall be adequate medical and nursing personnel qualified in emergency care to meet the written emergency procedures and needs anticipated by the facility.

(2) There shall be on duty and on site at all times at least one person qualified as determined by the medical staff to initiate immediate appropriate lifesaving measures; and at least one nurse with current advanced cardiac life support and pediatric advanced life support certification.

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

(4) One or more physicians shall be on-site at all times during facility hours of operation.

(5) Schedules, names, and telephone numbers of all physicians and others on emergency call duty, including alternates, shall be maintained. The facility shall retain the schedules for at least one year.

(e) Adequate age-appropriate supplies and equipment shall be available and in readiness for use. Equipment and supplies shall be available for the administration of intravenous medications as well as facilities for the control of bleeding and emergency splinting of fractures. The emergency equipment shall be periodically tested according to the policy adopted, implemented, and enforced by the hospital.

(f) At a minimum, the age-appropriate emergency equipment and supplies shall include the following:

(1) emergency call system;

(2) oxygen;

(3) mechanical ventilatory assistance equipment, including airways, manual breathing bag, and mask;

(4) cardiac defibrillator;

(5) cardiac monitoring equipment;

(6) laryngoscopes and endotracheal tubes;

(7) suction equipment;

(8) emergency drugs and supplies specified by the medical staff;

(9) stabilization devices for cervical injuries;

(10) blood pressure monitoring equipment; and

(11) pulse oximeter or similar medical device to measure blood oxygenation.

(g) Facilities shall participate in the local Emergency Medical Service (EMS) system, based on the facility's capabilities and capacity, and the locale's existing EMS plan and protocols.

(h) Emergency services for survivors of sexual assault. If a facility does not provide diagnosis or treatment services to victims of sexual assault, the facility shall refer a victim seeking a forensic medical examination to a hospital or other health care facility that provides services to those victims.

§131.47. Anesthesia.

(a) If the facility furnishes anesthesia services, these services shall be provided in a well-organized manner under the medical direction of a physician approved by the governing body and qualified in accordance with the Medical Practice Act, Occupations Code, Subtitle B, and the Nursing Practice Act, Texas Occupations Code, Chapter 301, as appropriate.

(b) A facility that furnishes anesthesia services shall comply with Occupations Code, Chapter 162, Subchapter C (relating to Anesthesia in Outpatient Settings), unless the facility is exempt under Occupations Code, §162.103.

(c) The facility is responsible for and shall document all anesthesia services administered in the facility.

(d) Anesthesia services provided in the facility shall be limited to those that are recommended by the medical staff and approved by the governing body, which may include the following.

(1) Topical anesthesia--An anesthetic agent applied directly or by spray to the skin or mucous membranes, intended to produce transient and reversible loss of sensation to the circumscribed area.

(2) Local anesthesia--Administration of an agent that produces a transient and reversible loss of sensation to a circumscribed portion of the body.

(3) Regional anesthesia--Anesthetic injected around a single nerve, a network of nerves, or vein that serves the area involved in a surgical procedure to block pain.

(4) Minimal sedation (anxiolysis)--A drug-induced state during which patients respond normally to oral commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are unaffected.

(5) Moderate sedation/analgesia ("conscious sedation")--A drug-induced depression of consciousness during which patients respond purposefully to oral commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. (Reflex withdrawal from a painful stimulus is not considered a purposeful response.)

(6) Deep sedation/analgesia--A drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful

stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. (Reflex withdrawal from a painful stimulus is not considered a purposeful response.)

(e) The medical staff shall develop written policies and practice guidelines for the anesthesia service, which shall be adopted, implemented, and enforced by the governing body. The policies and guidelines shall include consideration of the applicable practice standards and guidelines of the American Society of Anesthesiologists, the American Association of Nurse Anesthetists, and the licensing rules and standards applicable to those categories of licensed professionals qualified to administer anesthesia.

(f) Only personnel who have been approved by the facility to provide anesthesia services shall administer anesthesia. All approvals or delegations of anesthesia services as authorized by law shall be documented and include the training, experience, and qualifications of the person who provided the service. A qualified registered nurse (RN) who is not a certified registered nurse anesthetist (CRNA), in accordance with the orders of the physician or CRNA may administer topical anesthesia, local anesthesia, minimal sedation and moderate sedation, in accordance with all applicable rules, policies, directives, and guidelines issued by the Texas Board of Nursing. When an RN who is not a CRNA administers sedation, as permitted in this paragraph, the facility shall:

(1) verify that the RN has the requisite training, education, and experience;

(2) maintain documentation to support that the RN has demonstrated competency in the administration of sedation;

(3) with input from the facility's qualified anesthesia providers, develop, implement and enforce detailed written policies and procedures to guide the RN; and

(4) ensure that, when administering sedation during a procedure, the RN has no other duties except to monitor the patient.

(g) Anesthesia shall not be administered unless the physician has evaluated the patient immediately before the procedure to assess the risk of the anesthesia and of the procedure to be performed.

(h) Patients who have received anesthesia shall be evaluated for proper anesthesia recovery by the physician or the person administering the anesthesia before discharge using criteria approved by the medical staff.

(i) Patients shall be evaluated immediately before leaving the facility by a physician, the person administering the anesthesia, or an RN acting in accordance with physician's orders and written policies, procedures, and criteria developed by the medical staff.

(j) Emergency equipment and supplies appropriate for the type of anesthesia services provided shall be maintained and accessible to staff at all times.

(k) Functioning equipment and supplies that are required for all facilities include the following:

(1) suctioning equipment, including a source of suction and suction catheters in appropriate sizes for the population being served;

(2) source of compressed oxygen;

(3) basic airway management equipment, including oral and nasal airways, face masks, and self-inflating breathing bag valve set;

(4) blood pressure monitoring equipment; and

(5) emergency medications specified by the medical staff and appropriate to the type of procedures and anesthesia services provided by the facility.

(l) In addition to the equipment and supplies required under subsection (k) of this section, facilities which provide moderate sedation/analgesia, deep sedation/analgesia, and/or regional analgesia shall provide the following:

(1) intravenous equipment, including catheters, tubing, fluids, dressing supplies, and appropriately sized needles and syringes;

(2) advanced airway management equipment, including laryngoscopes and an assortment of blades, endotracheal tubes, and stylets in appropriate sizes for the population being served;

(3) a mechanism for monitoring blood oxygenation, such as pulse oximetry;

(4) electrocardiographic monitoring equipment;

(5) cardiac defibrillator; and

(6) pharmacologic antagonists as specified by the medical staff and appropriate to the type of anesthesia services provided.

§131.48. Laboratory and Pathology Services.

(a) The facility shall maintain directly, or have immediately available on the premises adequate laboratory services to meet the needs of its patients.

(b) Laboratory services shall comply with the Clinical Laboratory Improvement Amendments of 1988 (CLIA 1988), in accordance with the requirements specified in 42 Code of

Federal Regulations (CFR), §§493.1-493.1780. CLIA 1988 applies to all facilities with laboratories that examine human specimens for the diagnosis, prevention, or treatment of any disease or impairment, or for health assessment.

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

(d) Emergency laboratory services shall be available on the premises during hours of operation including but not limited to the following:

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

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

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

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

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

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

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

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

(4) Facility staff must observe the patient for potential adverse reactions during the transfusion and for an appropriate time thereafter, and document the observations and patient's response.

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

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

(i) The facility shall establish a mechanism for ensuring that the patient's physician or other licensed health care professional is made aware of critical value lab results, as established by the medical staff, before or after the patient is discharged. A physician shall read, date, sign, and authenticate all laboratory reports.

(j) A facility that provides laboratory services shall adopt, implement, and enforce written policies and procedures to manage, minimize, or eliminate the risks to laboratory personnel of exposure to potentially hazardous chemicals in the laboratory.

§131.49. Pharmaceutical Services.

(a) The facility shall provide drugs, controlled substances, and biologicals in a safe and effective manner in accordance with professional practices. The facility shall be in compliance with all state and federal laws and regulations. The facility shall be licensed as required by the Texas State Board of Pharmacy. The facility shall adopt, implement, and enforce policy and procedures for pharmaceutical services.

(b) The facility may make pharmaceutical services available through contractual agreement. Pharmaceutical services provided under contract shall meet the same ethical practices, professional practices, and legal requirements that would be required if those services were provided directly by the facility.

§131.50. Radiology.

(a) The facility shall adopt, implement, and enforce policy and procedures for emergency radiological procedures.

(b) The facility shall provide radiological services that are immediately available on the premises to meet the emergency needs of patients and to adequately support the facility's clinical capabilities, including but not limited to plain film x-ray.

(c) Facilities licensed on or after September 1, 2010, shall provide computed tomography (CT) scan services that are immediately available on the premises.

(d) Facilities licensed before September 1, 2010, shall provide CT scan services that are immediately available upon initial licensure. Not later than one year after initial licensure,

facilities licensed before September 1, 2010, shall provide CT scan services that are immediately available on the premises.

(e) Facilities licensed on or after September 1, 2010, shall provide ultrasound services that are immediately available on the premises.

(f) Facilities licensed before September 1, 2010, shall provide ultrasound services that are immediately available upon initial licensure. Not later than one year after initial licensure, facilities licensed before September 1, 2010, shall provide ultrasound services that are immediately available on the premises.

(g) A physician shall read, date, sign, and authenticate all examination reports.

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

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

(j) Policies shall address the quality aspects of radiology services, including, but not limited to:

(1) performing radiology services only upon the written order of a physician, advanced practice registered nurse, or other authorized practitioner (such orders shall be accompanied by a concise statement of the reason for the examination); and

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

(k) Policies shall address safety, including, but not limited to:

(1) regulation of the use, removal, handling, and storage of any radioactive material that is required to be licensed by the department, Radiation Safety Licensing Branch;

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

(3) proper shielding where radiation sources are used;

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

(5) maintenance of radiation exposure records on personnel; and

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

§131.51. Respiratory Services.

(a) The facility shall meet the respiratory needs of the patients in accordance with acceptable standards of practice.

(b) The facility shall adopt, implement, and enforce policies and procedures that describe the provision of respiratory care services in the facility.

(c) The organization of the respiratory care services shall be appropriate to the scope and complexity of the services offered.

(d) Personnel qualified to perform specific procedures and the amount of supervision required for personnel to carry out specific procedures shall be designated in writing.

(e) If blood gases or other clinical laboratory tests are performed, staff shall comply with Clinical Laboratory Improvement Amendments of 1988 in accordance with the requirements specified in 42 Code of Federal Regulations, Part 493.

(f) Respiratory services shall be provided only on, and in accordance with, the orders of a physician, advanced practice registered nurse, or other authorized practitioner.

§131.52. Surgical Services within the Scope of the Practice of Emergency Medicine.

(a) Surgical procedures performed in the facility shall be limited to those emergency procedures that are approved by the governing body upon the recommendation of medical staff.

(b) Adequate supervision of surgical procedures conducted in the facility shall be a responsibility of the governing body, shall be recommended by medical staff, and shall be provided by appropriate medical staff.

(c) Surgical procedures shall be performed only by physicians or practitioners who are licensed to perform surgical procedures in Texas and who have been granted privileges to perform those procedures by the governing body, upon the recommendation of the medical staff, and after medical review of the physician's or practitioner's documented education, training, experience, and current competence.

(d) Surgical procedures to be performed in the facility shall be reviewed periodically as part of the peer review portion of the facility's quality assessment and performance improvement program.

(e) An appropriate history, physical examination, and pertinent preoperative diagnostic studies shall be incorporated into the patient's medical record prior to surgical procedures.

(f) Unless otherwise provided by law, the necessity or appropriateness of the proposed surgical procedure, as well as any available alternative treatment techniques, shall be discussed with the patient, or if applicable, with the patient's legal representative before the surgical procedure.

(g) Licensed nurses and other personnel assisting in the provision of surgical services shall be appropriately trained and supervised and shall be available in sufficient numbers for the surgical care provided.

(h) Each treatment/examination room shall be designed and equipped so that the types of surgical procedures conducted can be performed in a manner that protects the lives and ensures the physical safety of all persons in the area.

(1) If flammable agents are present in a treatment/examination room, the room shall be constructed and equipped in compliance with standards established by the National Fire Protection Association (NFPA 99, Annex 2, Flammable Anesthetizing Locations, 1999) and with applicable state and local fire codes.

(2) If nonflammable agents are present in a treatment/examination room, the room shall be constructed and equipped in compliance with standards established by the National Fire Protection Association (NFPA 99, Chapters 4 and 8, 1999) and with applicable state and local fire codes.

(i) With the exception of those tissues exempted by the governing body after medical review, tissues removed shall be examined by a pathologist, whose signed or authenticated report of the examination shall be made a part of the patient's medical record.

(j) A description of the findings and techniques of surgical procedures shall be accurately and completely incorporated into the patient's medical record immediately after the procedure by the physician or practitioner who performed the procedure. If the description is dictated, an accurate written summary shall be immediately available to the physicians and practitioners providing patient care and shall become a part of the patient's medical record.

(k) The facility shall provide adequate space, equipment, and personnel to ensure a safe environment for treating patients during surgical procedures, including adequate safeguards to protect the patient from cross infection.

(1) The facility shall isolate patients with communicable diseases.

(2) Acceptable aseptic techniques shall be used by all persons.

(3) Suitable equipment for rapid and routine sterilization shall be available.

(4) The facility shall implement environmental controls that ensure a safe and sanitary environment.

(l) Written policies and procedures for decontamination, disinfection, sterilization, and storage of sterile supplies shall be adopted, implemented, and enforced as described in §131.56 of this title (relating to Sterilization).

(m) Emergency power adequate for the type of surgical procedures performed shall be available.

(n) Periodic calibration and/or preventive maintenance of all equipment shall be provided in accordance with manufacturer's guidelines.

(o) Unless otherwise provided by law, the informed consent of the patient or, if applicable, of the patient's legal representative shall be obtained before a surgical procedure is performed.

(p) A written procedure shall be established for observation and care of the patient during and after surgical procedures.

(q) Written protocols shall be established for instructing patients in self-care after surgical procedures, including written instructions to be given to patients who receive conscious sedation and/or regional anesthesia.

(r) Patients who have received anesthesia, other than solely topical anesthesia, shall be allowed to leave the facility only in the company of a responsible adult, unless the physician, physician assistant, or an advanced practice registered nurse writes an order that the patient may leave without the company of a responsible adult.

(s) The facility shall develop an effective written procedure for the immediate transfer to a hospital of patients requiring emergency care beyond the capabilities of the facility. The facility shall have a written transfer agreement with a hospital as set forth in §131.66 of this title (relating to Patient Transfer Policy).

§131.53. Medical Records.

(a) The facility shall develop and maintain a system for the collection, processing, maintenance, storage, retrieval, authentication, and distribution of patient medical records.

(b) The facility shall establish an individual medical record for each person receiving care.

(c) All clinical information relevant to a patient shall be readily available to physicians or practitioners involved in the care of that patient.

(d) Except when otherwise required or permitted by law, any record that contains clinical, social, financial, or other data on a patient shall be strictly confidential and shall be protected from loss, tampering, alteration, improper destruction, and unauthorized or inadvertent disclosure.

(e) The facility shall designate a person to be in charge of medical records. The person's responsibilities include, but are not limited to:

- (1) the confidentiality, security, and safe storage of medical records;
- (2) the timely retrieval of individual medical records upon request;
- (3) the specific identification of each patient's medical record;
- (4) the supervision of the collection, processing, maintenance, storage, retrieval, and distribution of medical records; and
- (5) the maintenance of a predetermined organized medical record format.

(f) The facility shall retain medical records in their original or legally reproduced form for a period of at least ten years. A legally reproduced form is a medical record retained in hard copy, microform (microfilm or microfiche), or electronic medium. Films, scans, and other image records shall be retained for a period of at least five years.

(1) The facility shall not destroy medical records that relate to any matter that is involved in litigation if the facility knows the litigation has not been finally resolved.

(2) For medical records of a patient less than 18 years of age at the time of last treatment, the facility may dispose of those medical records after the date of the patient's 20th birthday or after the 10th anniversary of the date on which the patient was last treated, whichever date is later, unless the records are related to a matter that is involved in litigation that the facility knows has not been finally resolved.

(3) If a facility plans to close, the facility shall arrange for disposition of the medical records in accordance with applicable law. The facility shall notify the department at the time of closure of the disposition of the medical records, including where the medical records will be stored and the name, address, and phone number of the custodian of the records.

(g) Except when otherwise required by law, the content and format of medical records, including the sequence of information, shall be uniform.

(h) Medical records shall be available to authorized physicians and practitioners any time the facility is open to patients.

(i) The facility shall include the following in patients' medical records:

- (1) complete patient identification;
- (2) date, time, and means of arrival and discharge;

(3) allergies and untoward reactions to drugs recorded in a prominent and uniform location;

(4) all medications administered and the drug dose, route of administration, frequency of administration, and quantity of all drugs administered or dispensed to the patient by the facility and entered on the patient's medical record;

(5) significant medical history of illness and results of physical examination, including the patient's vital signs;

(6) a description of any care given to the patient before the patient's arrival at the facility;

(7) a complete detailed description of treatment and procedures performed in the facility;

(8) clinical observations including the results of treatment, procedures, and tests;

(9) diagnostic impression;

(10) a preanesthesia evaluation by an individual qualified to administer anesthesia when administered;

(11) pathology report on all tissues removed, except those exempted by the governing body;

(12) documentation of a properly executed informed consent when necessary;

(13) for patients with a length of stay greater than eight hours, an evaluation of nutritional needs and evidence of how identified needs were met;

(14) evidence of evaluation of the patient by a physician or advanced practice registered nurse before dismissal; and

(15) conclusion at the termination of evaluation and/or treatment, including final disposition, the patient's condition on discharge or transfer, and any instructions given to the patient or family for follow-up care.

(j) Medical advice given to a patient by telephone shall be entered in the patient's medical record and dated, timed, and authenticated.

(k) Entries in medical records shall be legible, accurate, complete, dated, timed, and authenticated by the person responsible for providing or evaluating the service provided no later than 48 hours after discharge.

(l) When necessary for ensuring continuity of care, summaries or photocopies of the patient's record shall be transferred to the physician or practitioner to whom the patient was referred and, if appropriate, to the facility where future care will be rendered.

§131.54. Infection Control.

(a) The facility shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. The facility shall have an infection control program for the prevention, control, and surveillance of infections and communicable diseases.

(1) The facility shall designate an infection control professional. The facility shall ensure that policies governing prevention, control, and surveillance of infections and communicable diseases are adopted, implemented, and enforced.

(2) The facility shall have a system for identifying, reporting, investigating, and controlling health care associated infections and communicable diseases between patients and personnel.

(3) The infection control professional shall maintain a log of all reportable diseases and health care associated infections designated as epidemiologically significant according to the facility's infection control policies.

(4) The facility shall adopt, implement, and enforce a written policy for reporting all reportable diseases to the local health authority and the Infectious Disease Surveillance and Epidemiology Branch, Department of State Health Services, Mail Code 1960, P.O. Box 149347, Austin, Texas 78714-9347, in accordance with Chapter 97 of this title (relating to Communicable Diseases).

(5) The infection control program shall include active participation by the medical staff, nursing staff, pharmacist, and other practitioners as appropriate.

(b) The medical director shall be responsible for ensuring that the facility-wide quality assessment and performance improvement program and training programs address problems identified by the infection control professional.

(c) The medical director shall be responsible for ensuring that the facility implements successful corrective action plans in affected problem areas.

(d) The facility shall adopt, implement, and enforce a written policy to monitor compliance of the facility and its personnel and medical staff with universal precautions in accordance with Health and Safety Code, Chapter 85 (concerning Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus Infection).

§131.55. Sanitary Conditions and Hygienic Practices.

(a) General infection control measures. Universal precautions shall be followed in the facility for all patient care activities in accordance with 29 Code of Federal Regulations, §1910.1030(d)(1)-(3) (concerning Bloodborne Pathogens) and Health and Safety Code, Chapter 85, Subchapter I (concerning Prevention of Transmission of HIV and Hepatitis B Virus by Infected Health Care Workers).

(b) Physical environment.

(1) A facility shall develop, implement, and enforce policies and procedures to provide and actively monitor a safe, functional, comfortable, and sanitary environment which minimizes or prevents transmission of infectious diseases for all patients, visitors, and the public.

(2) Blood spills shall be cleaned immediately or as soon as is practical with a disposable cloth and an appropriate chemical disinfectant.

(A) The surface shall be subjected to intermediate-level disinfection in accordance with the manufacturer's directions for use, if a commercial liquid chemical disinfectant is used.

(B) If a solution of chlorine bleach (sodium hypochlorite) is used, the solution shall be at least 1:100 sodium hypochlorite and mixed in accordance with the manufacturer's directions for use. The surface to be treated shall be compatible with this type of chemical treatment.

(C) The facility shall utilize dedicated cleaning supplies (i.e., mop, bucket) for the cleaning of blood spills.

§131.56. Sterilization.

(a) A person qualified by education, training, and experience shall supervise the sterilization of all supplies and equipment. Staff responsible for the sterilization of supplies and equipment shall participate in a documented continuing education program. New employees shall receive initial orientation and on-the-job training. Staff using chemical disinfectants shall have received training on their use.

(b) Written policies and procedures for the decontamination and sterilization activities performed shall be adopted, implemented, and enforced. Policies shall include the receiving, cleaning, decontaminating, disinfecting, preparing, and sterilizing of reusable items, as well as the assembly, wrapping, storage, distribution, and quality control of sterile items and equipment. The infection control practitioner or committee shall review and approve these written policies at least every other year.

(c) Every facility shall provide equipment adequate for sterilization of supplies and equipment as needed. Equipment shall be maintained and operated to perform, with accuracy, the sterilization of the various materials required.

(d) Where cleaning, preparation, and sterilization functions are performed in the same room or unit, the physical facilities, equipment, and policies and procedures for their use, shall effectively separate soiled or contaminated supplies and equipment from clean or sterilized supplies and equipment. Hand-washing facilities shall be provided and a separate sink shall be provided for safe disposal of liquid waste.

(e) All containers for solutions, drugs, flammable solvents, ether, alcohol, and medicated supplies shall be clearly labeled to indicate contents. Containers that are sterilized by the facility shall be labeled so as to be identifiable before and after sterilization. Sterilized items shall have a load control identification that indicates the sterilizer used, the cycle or load number, and the date of sterilization.

(f) Sterilizers.

(1) Steam sterilizers (saturated steam under pressure) shall be used to sterilize heat and moisture stable items. Steam sterilizers shall be used according to manufacturer's written instructions.

(2) Ethylene oxide (EO) sterilizers shall be used for processing heat and moisture sensitive items. EO sterilizers and aerators shall be used and vented according to the manufacturer's written instructions.

(3) Flash sterilizers shall be used for emergency sterilization of clean, unwrapped instruments and porous items only.

(g) Preparation for sterilization.

(1) All items to be sterilized shall be prepared to reduce the bioburden. All items shall be thoroughly cleaned, decontaminated, and prepared in a clean, controlled environment.

(2) All articles to be sterilized shall be arranged so all surfaces will be directly exposed to the sterilizing agent for the prescribed time and temperature.

(3) All wrapped articles to be sterilized shall be packaged in materials recommended for the specific type of sterilizer and material to be sterilized.

(h) External chemical indicators.

(1) External chemical indicators, also known as sterilization process indicators, shall be used on each package to be sterilized, including items being flash sterilized to indicate that items have been exposed to the sterilization process.

(2) The indicator results shall be interpreted according to manufacturer's written instructions and indicator reaction specifications.

(3) A log shall be maintained with the load identification, indicator results, and identification of the contents of the load.

(i) Biological indicators are commercially-available microorganisms (e.g., United States Food and Drug Administration approved strips or vials of *Bacillus* species endospores) that can be used to verify the performance of waste treatment equipment and processes (or sterilization equipment and processes).

(1) The efficacy of the sterilizing process shall be monitored with reliable biological indicators appropriate for the type of sterilizer used.

(2) Biological indicators shall be included in at least one run each week of use for steam sterilizers, at least one run each day of use for low-temperature hydrogen peroxide gas sterilizers, and every load for EO sterilizers.

(3) Biological indicators shall be included in every load that contains implantable objects.

(4) A log shall be maintained with the load identification, biological indicator results, and identification of the contents of the load.

(5) If a test is positive, the sterilizer shall immediately be taken out of service.

(A) Implantable items shall be recalled and reprocessed if a biological indicator test (spore test) is positive.

(B) All available items shall be recalled and reprocessed if a sterilizer malfunction is found and a list of those items not retrieved in the recall shall be submitted to infection control.

(C) A malfunctioning sterilizer shall not be put back into use until it has been serviced and successfully tested according to the manufacturer's recommendations.

(j) Disinfection.

(1) Written policies, approved by the infection control committee, shall be adopted, implemented, and enforced for the use of chemical disinfectants.

(2) The manufacturer's written instructions for the use of disinfectants shall be followed.

(3) An expiration date, determined according to manufacturer's written recommendations, shall be marked on the container of disinfection solution currently in use.

(4) Disinfectant solutions shall be kept covered and used in well-ventilated areas.

(5) Chemical germicides that are registered with the United States Environmental Protection Agency as "sterilants" may be used either for sterilization or high-level disinfection.

(6) All staff personnel using chemical disinfectants shall have received training on their use.

(k) Performance records.

(1) Performance records for all sterilizers shall be maintained for each cycle. These records shall be retained and available for review for a minimum of five years.

(2) Each sterilizer shall be monitored continuously during operation for pressure, temperature, and time at desired temperature and pressure. A record shall be maintained and shall include:

(A) the sterilizer identification;

(B) sterilization date;

(C) cycle number;

(D) contents of each load;

(E) duration and temperature of exposure phase (if not provided on sterilizer recording charts);

(F) identification of operator(s);

(G) results of biological tests and dates performed;

(H) time-temperature recording charts from each sterilizer;

(I) gas concentration and relative humidity (if applicable); and

(J) any other test results.

(l) Storage of sterilized items.

(1) Sterilized items shall be transported so as to maintain cleanliness and sterility and to prevent physical damage.

(2) Sterilized items shall be stored in well-ventilated, limited access areas with controlled temperature and humidity.

(3) The facility shall adopt, implement and enforce a policy which describes the mechanism used to determine the shelf life of sterilized packages.

(m) Qualified personnel shall perform preventive maintenance of all sterilizers according to adopted, implemented, and enforced policy on a scheduled basis, using the sterilizer manufacturer's service manual as a reference. A preventive maintenance record shall be maintained for each sterilizer. These records shall be retained at least two years and shall be available for review at the facility within two hours of request by the department.

§131.57. Linen and Laundry Services.

(a) The facility shall adopt, implement and enforce policies to provide sufficient clean linen to ensure the comfort of the patient.

(b) For purposes of this subsection, contaminated linen is linen that has been soiled with blood or other potentially infectious materials or may contain sharps. Other potentially infectious materials means:

(1) the following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

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

(3) Human Immunodeficiency Virus (HIV)-containing cell or tissue cultures, organ cultures, and HIV or Hepatitis B Virus (HBV)-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

(c) The facility, whether it operates its own laundry or uses commercial service, shall ensure that employees of a facility involved in transporting, processing, or otherwise handling clean or soiled linen shall be given initial and follow-up in-service training to ensure a safe product for patients and to safeguard employees in their work.

(d) Employees who have contact with contaminated linen shall wear gloves and other appropriate personal protective equipment.

(e) Clean linen shall be handled, transported, and stored by methods that will ensure its cleanliness.

(f) Contaminated linen shall be handled as little as possible and with a minimum of agitation.

(1) Contaminated linen shall not be sorted or rinsed in patient care areas.

(2) Contaminated linen shall be bagged or put into carts at the location where it was used.

(3) Contaminated linen shall be placed and transported in bags or containers that are labeled or color-coded.

(4) Bags containing contaminated linen shall be closed before transport.

(5) Whenever contaminated linen is wet and presents a reasonable likelihood of soak-through or leakage from the bag or container, the linen shall be deposited and transported in bags that prevent leakage of fluids to the exterior.

(g) All linen placed in chutes shall be bagged.

(h) If chutes are not used to convey linen to a central receiving or sorting room, then adequate space shall be allocated in the facility for holding the bagged contaminated linen.

(i) Linen shall be processed as follows:

(1) If hot water is used, linen shall be washed with detergent in water with a temperature of at least 71 degrees Centigrade (160 degrees Fahrenheit) for 25 minutes.

(2) If low-temperature (less than or equal to 70 degrees Centigrade, 158 degrees Fahrenheit) laundry cycles are used, chemicals suitable for low-temperature washing at proper use concentration shall be used.

(3) Fabrics soiled with blood may be commercially dry cleaned (because dry cleaning eliminates the risk of pathogen transmission).

(4) Flammable liquids shall not be used to process laundry, but may be used for equipment maintenance.

§131.58. Waste and Waste Disposal.

(a) Special waste and liquid/sewage waste management.

(1) Facilities shall comply with the requirements set forth by the Texas Commission on Environmental Quality (TCEQ) requirements in 30 TAC, §330.1207 (relating to Generators of Medical Waste).

(2) All sewage and liquid wastes shall be disposed of in a municipal sewerage system or a septic tank system permitted by the TCEQ in accordance with 30 TAC, Chapter 285 (relating to On-Site Sewage Facilities).

(3) Facilities shall comply with the requirements set forth in Chapter 1, Subchapter K of this title (relating to the Definition, Treatment, and Disposition of Special Waste from Health Care-Related Facilities).

(b) Waste receptacles.

(1) Waste receptacles shall be conveniently available in all toilet rooms, patient areas, staff work areas, and waiting rooms. Receptacles shall be routinely emptied of their contents at a central location(s) into closed containers.

(2) Waste receptacles shall be properly cleaned with soap and hot water, followed by treatment of inside surfaces of the receptacles with a germicidal agent.

(3) All containers for other municipal solid waste shall be leak-resistant, have tight-fitting covers, and be rodent-proof.

(4) Non-reusable containers shall be of suitable strength to minimize animal scavenging or rupture during collection operations.

§131.59. Patient Rights.

(a) Patients shall be treated with respect, consideration, and dignity.

(b) Patients shall be provided appropriate privacy.

(c) Patient records shall be treated confidentially. Patients shall be given the opportunity to approve or refuse release of patient records, except when release of the records is authorized by law.

(d) Patients shall be provided, to the degree known, appropriate information concerning their diagnosis, treatment, and prognosis. When it is medically inadvisable to give such information to a patient, the information shall be provided to a person designated by the patient or to a legally authorized person.

(e) Patients shall be given the opportunity to participate in decisions involving their health care, except when the patient's participation is contraindicated for medical reasons.

(f) Information shall be available to patients and staff concerning:

(1) patient rights, including those specified in subsections (a) - (e) of this section;

(2) patient conduct and responsibilities;

(3) services available at the facility;

(4) provisions for after-hours and emergency care as applicable;

(5) fees for services provided;

(6) payment policies; and

(7) methods for expressing complaints and suggestions to the facility.

(g) Marketing or advertising regarding the competence or capabilities of the organization shall not be misleading to patients.

§131.60. Abuse and Neglect.

(a) The following definitions apply in this section.

(1) Abuse--The negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment, including pain or sexual abuse, that adversely affects the physical, mental, or emotional welfare of a patient.

(2) Neglect--The failure to provide goods or services that are necessary to avoid adversely affecting the physical, mental, or emotional welfare of a patient.

(3) Exploitation--The use of a patient's resources for monetary or personal benefit, profit, or gain without the informed consent of the patient.

(4) Illegal conduct--Conduct prohibited by law.

(5) Unethical conduct--Conduct prohibited by the ethical standards adopted by state or national professional organizations for their respective professions or by rules established by the state licensing agency for the respective profession.

(6) Unprofessional conduct--Conduct prohibited under rules adopted by the state licensing agency for the respective profession.

(b) Incidents of abuse, neglect, exploitation, illegal conduct, unethical conduct, or unprofessional conduct shall be reported to the department or to the appropriate state health care regulatory agency.

(c) A person associated with a facility, including an employee, volunteer, health care professional, or other person, who reasonably believes or knows of information that would reasonably cause a person to believe that an incident of abuse, neglect, or exploitation perpetrated by any person has, is, or will occur shall report the incident as soon as possible to the department or to the appropriate state health care regulatory agency.

(d) A person associated with a facility, including an employee, volunteer, health care professional, or other person, who reasonably believes or who knows of information that would reasonably cause a person to believe that the facility or an employee or health care professional

associated with the facility, has, is, or will be engaged in conduct that is or might be illegal, unprofessional, or unethical and that relates to the operation of the facility shall as report the information soon as possible to the department or to the appropriate state health care regulatory agency.

(e) A facility shall prominently and conspicuously post for display a statement of the duty to report abuse, neglect, exploitation, illegal conduct, unethical conduct, or unprofessional conduct. The display shall be posted in a public area of the facility and shall be readily visible to patients, residents, volunteers, employees, and visitors. The statement shall be in English and in a second language as appropriate to the demographic makeup of the community served. The statement shall contain the number of the department's patient information and complaint line at (888) 973-0022.

(f) A facility shall comply with the requirements in Chapter 1, Subchapter Q of this title (relating to Investigations of Abuse, Neglect, or Exploitation of Children or Elderly or Disabled Persons).

§131.61. Reporting Requirements.

(a) A facility shall report the following incidents to the department:

- (1) the death of a patient while under the care of the facility;
- (2) a patient stay exceeding 23 hours; and
- (3) 9-1-1 activation.

(b) Reports under subsection (a) shall be on a form provided by the department. The report shall contain a written explanation of the incident and the name of the individual responsible. The report shall be faxed or mailed to the department not later than the 10th business day after the incident. The mailing address is Department of State Health Services, Facility Licensing Group, Mail Code 1979, P.O. Box 149347 Austin, Texas 78714-9347.

(c) A facility shall report any abuse, theft, or diversion of controlled drugs in accordance with applicable federal and state laws, and shall report the incident to the chief executive officer of the facility.

(d) A facility shall report occurrences of fires in the facility as specified under §131.121 of this title (relating to Fire Prevention, Protection and Emergency Contingency Plan) and §131.123 of this title (relating to Handling and Storage of Gases, Anesthetics, and Flammable Liquids).

§131.62. Complaints.

(a) In response to a complaint, the department or its authorized representative may enter the premises of a facility during normal business hours as necessary to ensure compliance with

the Act and this chapter. The investigation may be conducted on-site, unannounced, or may be conducted by phone or mail.

(b) All licensed facilities are required to provide the patient and his/her guardian at time of admission a written statement identifying the department as the responsible agency for facility complaint investigations. The statement shall inform persons to direct complaints to the Department of State Health Services, Patient Quality Care Unit – Health Facility Compliance, P.O. Box 149347, Mail Code 1979, Austin, Texas 78714-9347, telephone (888) 973-0022. This information must also be prominently and conspicuously posted for display in an area of the facility that is readily available to patients, families and visitors. Complaints may be registered with the department by phone or in writing. A complainant may provide his or her name, address, and phone number to the department. Anonymous complaints may also be taken. All complaints are confidential.

(c) The department will evaluate all complaints against all facilities. Only those allegations determined to be relevant to the Act will be authorized for investigation.

(d) Conduct of the investigation will include, but is not limited to:

(1) a conference before commencing the on-site inspection for the purpose of explaining the nature and scope of the inspection between the department's authorized representative and the person who is in charge of the facility;

(2) inspection of the facility;

(3) inspection of medical and personnel records, including administrative files, reports, records, or working papers;

(4) an interview with any willing recipient of services at the facility;

(5) an interview with any health care practitioner or facility personnel who care for the recipients of facility services;

(6) a conference at the conclusion of the inspection between the department's representative and the person who is in charge of the facility and other staff determined by the facility to be appropriate to attend the conclusionary conference.

(A) The department's representative will identify any records that have been reproduced.

(B) Any records that are removed from a facility (other than those reproduced) shall be removed only with the consent of the facility. The facility shall furnish copies of all records pertinent to the investigation at the department's request.

(e) The department will review the report of the investigation and determine the validity of the complaint.

(f) Time Frame for Investigation of Complaints.

(1) Once the department receives a complaint, the department will identify any regulatory issues that may be apparent. The department will consider the severity of the allegations and whether there is potential or actual patient injury, death, or other negative outcome that would affect a patient's ability to care for himself or herself.

(2) If the department identifies a potential risk to patients, the complaint shall be considered one of immediate jeopardy, and the complaint shall be investigated within two working dates from the date of receipt.

(3) The department will investigate all other complaint allegations not later than the 45th business day after the date the department receives the complaint.

§131.63. Patient Safety Program.

(a) General.

(1) The facility must develop, implement and maintain an effective, ongoing, organization-wide, data driven Patient Safety Program (PSP).

(A) The governing body shall ensure the PSP reflects the complexity of the facility's organization and services, including those services furnished under contract or arrangement, and focuses on the prevention and reduction of medical errors and adverse events.

(B) The PSP must be in writing, approved by the governing body and made available for review by the department. It must include the following components:

(i) the definition of medical errors, adverse events and reportable events;

(ii) the process for internal reporting of medical errors, adverse events and reportable events;

(iii) a list of events and occurrences which staff are required to report internally;

(iv) time frames for internal reporting of medical errors, adverse events and reportable events;

(v) consequences for failing to report events in accordance with facility policy;

(vi) mechanisms for preservation and collection of event data;

(vii) the process for conducting root cause analysis;

(viii) the process for communicating action plans; and

(ix) the process for feedback to staff regarding the root cause analysis and action plan.

(C) The facility must provide patient safety education and training to staff, including medical staff, that have responsibilities related to the implementation, development, supervision or evaluation of the PSP. Training must include all PSP components as set out in subparagraph (B) of this paragraph.

(2) The facility must designate one or more individuals, or an interdisciplinary group, qualified by training or experience to be responsible for the management of the Patient Safety Program. These responsibilities shall include:

(A) coordinating all patient safety activities;

(B) facilitating assessment and appropriate response to reported events;

(C) monitoring the root cause analysis and resulting action plans; and

(D) serving as liaison among facility departments and committees to ensure facility-wide integration of the PSP.

(3) Not later than the 20th calendar day after the facility becomes aware of a reportable event specified under subsection (b) of this section, the facility must:

(A) Complete a root cause analysis to examine the cause and effect of the event through an impartial process; and

(B) Develop an action plan identifying the strategies that the facility intends to employ to reduce the risk of similar events occurring in the future. The action plan must:

(i) designate responsibility for implementation and oversight;

(ii) specify time frames for implementation; and

(iii) include a strategy for measuring the effectiveness of the actions taken.

(C) The facility must make the root cause analysis and action plan available for on-site review by department representatives.

(b) Reporting Requirements. On the renewal of the facility license, or annually based on the original licensing date, the facility shall submit to the department a report that lists the number of occurrences at the facility of each of the following events occurring during the preceding year. The facility is not required to include any information other than the total number of occurrences of each of the events listed within this subsection:

(1) a medication error resulting in a patient's unanticipated death or major permanent loss of bodily function in circumstances unrelated to the natural course of the illness or underlying condition of the patient;

(2) the suicide of a patient on the premises or during transport to another facility;

(3) the sexual assault of a patient during treatment or while the patient was on the premises of the facility;

(4) a patient death or serious disability associated with the use or function of a device designed for patient care that is used or functions other than as intended;

(5) a surgical procedure on the wrong patient or on the wrong body part of a patient; and

(6) a foreign object accidentally left in a patient during a procedure.

§131.64. Quality Assessment and Performance Improvement.

(a) Each facility shall develop, implement, maintain, and evaluate an effective, ongoing, facility-wide, data-driven, interdisciplinary quality assessment and performance improvement (QAPI) program. The program shall be individualized to the facility and meet the criteria and standards described in this section.

(b) The program shall reflect the complexity of the facility's organization and services involved. All facility services (including those services furnished under contract or arrangement) shall focus on indicators related to improved health outcomes and the prevention and reduction of medical errors.

(c) The program shall include, but not be limited to, an ongoing program that achieves measurable improvement in health outcomes and reduction of medical errors by using indicators or performance measures associated with improved health outcomes and with the identification and reduction of medical errors.

(d) The facility shall demonstrate that facility staff, including, but not limited to, the medical, nursing, and pharmacy staff, evaluate the provision of emergency care and patient services, set treatment goals, identify opportunities for improvement, develop and implement improvement plans, and evaluate the implementation until resolution is achieved. The facility shall measure, analyze, and track quality indicators or other aspects of performance that the facility adopts or develops that reflect processes of care and facility operations. Evidence shall

support that aggregate patient data, including identification and tracking of patient infections, is continuously reviewed for trends.

(e) Core staff members, including, but not limited to, the medical, nursing, and pharmacy staff, shall actively participate in the QAPI activities and monthly meetings.

(f) Core staff members, including, but not limited to, the medical, nursing, and pharmacy staff, shall actively participate in QAPI meetings more often as necessary to identify or correct problems. The QAPI meetings shall be documented.

(g) The facility's QAPI program shall include:

(1) an ongoing review of key elements of care using comparative and trend data to include aggregate patient data;

(2) identification of areas where performance measures or outcomes indicate an opportunity for improvement;

(3) appointment of interdisciplinary improvement team(s) to:

(A) identify, measure, analyze, and track indicators for variation from desired outcomes;

(B) create and implement improvement plan(s);

(C) evaluate the implementation of the improvement plan(s); and

(D) continue monitoring and improvement activities until resolution of the improvement plan;

(4) establishment and monitoring of quality indicators related to improved health outcomes. For each quality assessment indicator, the facility shall establish and monitor a level of performance consistent with current professional knowledge. These performance components shall influence or relate to the desired outcomes themselves. At a minimum, the following indicators shall be measured, analyzed, and tracked on a monthly basis:

(A) infection control (staff and patient screening; standard precautions);

(B) adverse events;

(C) mortality (review of each death and monitoring modality specific mortality rate(s));

(D) complaints and suggestions (from patients, family, or staff);

(E) staffing to include, but not limited to orientation, training, delegation, licensing and certification, and non-adherence to policies and procedures by facility staff;

(F) safety (fire and disaster preparedness, use of a department approved reporting system, and disposal of special waste);

(G) clinical records review to include treatment errors, and medication errors;

(5) the facility shall continuously monitor performance, take actions that result in performance improvement, and track performance to ensure that improvements are sustained over time. The facility shall immediately correct any identified problems that threaten the health and safety of patients.

(h) The department may review a facility's QAPI activities to determine compliance with this section.

(1) A department surveyor shall verify that the facility has a QAPI program which addresses concerns relating to quality of care provided to its patients and that the core staff members have knowledge of and the ability to access the facility's QAPI program.

(2) The department may not require disclosure of QAPI program records, except when disclosure is necessary for the department to determine compliance with this section.

§131.65. Disaster Preparedness/Emergency and Contingency Planning.

(a) A facility shall implement written procedures which describe staff and patient actions to manage potential medical and nonmedical emergencies, including but not limited to fire, equipment failure, power outages, medical emergencies, and natural or other disasters which are likely to threaten the health, welfare, or safety of facility patients, the staff, or the public.

(b) A facility shall have a functional plan to access the community emergency medical services.

(c) A written disaster preparedness plan for natural and other disasters specific to each facility shall be developed and in place. The plan shall be based on an assessment of the probability and type of disaster in each region and the local resources available to the facility.

(1) Contact shall be made annually with a local disaster management representative Emergency Operations Center (EOC) to assess the need to revise the plan and to ensure that local agencies are aware of the facility, its provision of life-saving treatment, and the patient population served.

(2) The plan shall include procedures designed to minimize harm to patients and staff along with ensuring safe facility operations. The plan and in-service programs for patients and staff shall include provisions or procedures for responsibility of direction and control,

communications, alerting and warning systems, evacuation, and closure. Each staff member employed by or under contract with the facility shall be able to demonstrate their role or responsibility to implement the facility's disaster preparedness plan. The facility shall designate a person to monitor and coordinate disaster preparedness activities. The facility shall maintain documentation of the monitoring and coordination of disaster preparedness activities.

(3) The plan shall address the continuity of essential building systems including emergency power and water, or a contract with another licensed facility to provide emergency contingency care to patients to meet the requirements of §131.121 of this title (relating to Fire Prevention, Protection, and Emergency Contingency Plan).

(d) A facility shall post a telephone number listing specific to the facility equipment and locale to assist staff in contacting mechanical and technical support in the event of an emergency.

§131.66. Patient Transfer Policy.

(a) General.

(1) The governing body of each facility shall adopt, implement, and enforce a policy relating to patient transfers that is consistent with this section and contains each of the requirements in subsection (b) of this section. The policies shall identify facility staff that has authority to represent the facility and the physician with regard to transfers from the facility.

(2) The transfer policy shall be adopted by the governing body of the facility after consultation with the medical staff and shall apply to transfers to hospitals licensed under the Health and Safety Code, Chapters 241 and 577, as well as transfers to hospitals that are exempt from licensing.

(3) The policy shall govern transfers not covered by a transfer agreement.

(4) The facility's transfer policy shall include a written operational plan to provide for patient transfer transportation services if the facility does not provide its own patient transfer transportation services.

(5) Each governing body, after consultation with the medical staff, shall implement its transfer policy by adopting transfer agreements with hospitals in accordance with §131.67 of this title (relating to Patient Transfer Agreements).

(6) The facility's policy shall recognize and comply with the requirements of the Indigent Health Care and Treatment Act, Health and Safety Code (HSC), §§61.030-61.032 and §§61.057-61.059.

(7) The facility's policy shall acknowledge contractual obligations and comply with statutory or regulatory obligations which may exist concerning a patient and a designated provider.

(8) The facility's policy shall require that all reasonable steps are taken to secure the written informed consent of a patient, or of a person acting on a patient's behalf, when refusing a transfer or related examination and treatment. Reasonable steps include:

(A) a factual explanation of the increased medical risks to the patient reasonably expected from not being transferred, examined, or treated at the transferring hospital;

(B) a factual explanation of any increased risks to the patient from not effecting the transfer; and

(C) a factual explanation of the medical benefits reasonably expected from the provision of appropriate treatment at another hospital.

(D) The informed refusal of a patient, or of a person acting on a patient's behalf, to examination, evaluation or transfer shall be documented and signed if possible by the patient or by a person acting on the patient's behalf, dated and witnessed by the attending physician or facility employee, and placed in the patient's medical record.

(9) The facility's policy shall recognize the right of an individual to request a transfer into the care of a physician and a hospital of the individual's own choosing.

(b) Requirements for transfer of patients from facilities to hospitals.

(1) The facility policy shall provide that the transfer of a patient may not be predicated upon arbitrary, capricious, or unreasonable discrimination based upon race, religion, national origin, age, sex, physical condition, economic status, insurance status or ability to pay.

(2) The facility's policy shall recognize the right of an individual to request transfer into the care of a physician and a hospital of his own choosing; however, if a patient requests or consents to transfer for economic reasons and the patient's choice is predicated upon or influenced by representations made by the transferring physician or facility administration regarding the availability of medical care and hospital services at a reduced cost or no cost to the patient, the physician or facility administration shall fully disclose to the patient the eligibility requirements established by the patient's chosen physician or hospital.

(3) The facility's policy shall provide that each patient who arrives at the facility is:

(A) evaluated by a physician at the time the patient presents; and

(B) personally examined and evaluated by the physician before an attempt to transfer is made.

(4) The policy of the transferring facility and receiving hospital shall provide that licensed nurses and other qualified personnel are available and on duty to assist with patient transfers. The policy shall provide that written protocols or standing delegation orders are in

place to guide facility personnel when a patient requires transfer to another hospital.

(5) Special requirements related to the transfer of patients who have emergency medical conditions.

(A) If a patient at a facility has an emergency medical condition that has not been stabilized, or when stabilization of the patient's vital signs is not possible because the facility does not have the appropriate equipment or personnel to correct the underlying process, the facility shall evaluate and treat the patient and shall transfer the patient as quickly as possible.

(B) The facility's transfer policy shall provide that the facility may not transfer a patient with an emergency medical condition that has not been stabilized unless:

(i) the individual (or a legally responsible person acting on the individual's behalf), after being informed of the facility's obligations under this section and of the risk of transfer, requests the transfer, in writing and indicates the reasons for the request, as well as that he or she is aware of the risks and benefits of the transfer;

(ii) a physician has signed a certification, which includes a summary of the risks and benefits, that, based on the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another hospital outweigh the increased risks to the patient and, in the case of labor, to the unborn child from effecting the transfer; or

(C) Except as is specifically provided in subsection (a)(6) and (7) of this section, the facility's policy shall provide that the transfer of patients who have emergency medical conditions, as determined by a physician, shall be undertaken for medical reasons only. The facility must provide medical treatment within its capacity that minimizes the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child.

(6) Physician's duties and standard of care.

(A) The policy shall provide that the transferring physician shall determine and order life support measures that are medically appropriate to stabilize the patient before transfer and to sustain the patient during transfer.

(B) The policy shall provide that the transferring physician shall determine and order the utilization of appropriate personnel and equipment for the transfer.

(C) The policy shall provide that in determining the use of medically appropriate life support measures, personnel, and equipment, the transferring physician shall exercise that degree of care which a reasonable and prudent physician exercising ordinary care in the same or similar locality would use for the transfer.

(D) The policy shall provide that, except as allowed under paragraph (5)(B) of this subsection, before each patient transfer, the physician who authorizes the transfer

shall personally examine and evaluate the patient to determine the patient's medical needs and to ensure that the proper transfer procedures are used.

(E) The policy shall provide that before transfer, the transferring physician shall ensure that a receiving hospital and physician that are appropriate to the medical needs of the patient have accepted responsibility for the patient's medical treatment and hospital care.

(7) The facility's policy shall provide that the facility's medical staff review appropriate records of patients transferred from the facility to determine that the appropriate standard of care has been met.

(8) Medical record.

(A) The facility's policy shall provide that a copy of those portions of the patient's medical record which are available and relevant to the transfer and to the continuing care of the patient be forwarded to the receiving physician and receiving hospital with the patient. If all necessary medical records for the continued care of the patient are not available at the time the patient is transferred, the records shall be forwarded to the receiving physician and hospital as soon as possible.

(B) The medical record shall contain at a minimum:

(i) a brief description of the patient's medical history and physical examination;

(ii) a working diagnosis and recorded observations of physical assessment of the patient's condition at the time of transfer;

(iii) the reason for the transfer;

(iv) the results of all diagnostic tests, such as laboratory tests;

(v) pertinent radiological films and reports; and

(vi) any other pertinent information.

(9) Memorandum of transfer.

(A) The facility's policy shall provide that a memorandum of transfer be completed for every patient who is transferred.

(B) The memorandum shall contain the following information:

(i) patient's full name, if known;

(ii) patient's race, religion, national origin, age, sex, physical

handicap, if known;

(iii) patient's address and next of kin, address, and phone number, if known;

(iv) names, telephone numbers, and addresses of the transferring and receiving physicians;

(v) names, addresses, and telephone numbers of the transferring facility and receiving hospital;

(vi) time and date on which the patient first presented or was presented to the transferring physician and transferring facility;

(vii) time and date on which the transferring physician secured a receiving physician;

(viii) name, date, and time hospital administration was contacted in the receiving hospital;

(ix) signature, time, and title of the transferring facility administration who contacted the receiving hospital;

(x) certification required by paragraph (5)(B)(ii) of this subsection, if applicable (the certification may be part of the memorandum of transfer form or may be on a separate form attached to the memorandum of transfer form);

(xi) time and date on which the receiving physician assumed responsibility for the patient;

(xii) time and date on which the patient arrived at the receiving hospital;

(xiii) signature and date of receiving hospital administration;

(xiv) type of vehicle and company used;

(xv) type of equipment and personnel needed in transfers;

(xvi) name and city of hospital to which patient was transported;

(xvii) diagnosis by transferring physician; and

(xviii) attachments by transferring hospital.

(C) A copy of the memorandum of transfer shall be retained by the transferring facility. The memorandum shall be filed separately from the patient's medical record

and in a manner which will facilitate its inspection by the department. All memorandum of transfer forms filed separately shall be retained for five years.

(c) A facility violates the Act and this section if:

(1) the facility fails to comply with the requirements of this section; or

(2) the governing body fails or refuses to:

(A) adopt a transfer policy that is consistent with this section and contains each of the requirements in subsection (b) of this section;

(B) adopt a memorandum of transfer form that meets the minimum requirements for content contained in this section; or

(C) enforce its transfer policy and the use of the memorandum of transfer.

§131.67. Patient Transfer Agreements.

(a) General provisions.

(1) Patient transfer agreements between a facility and hospitals are mandatory.

(2) The facility shall submit the transfer agreement to the department for review to determine if the agreement meets the requirements of subsection (b) of this section.

(3) Multiple transfer agreements may be entered into by a facility based upon the type or level of medical services available at other hospitals.

(b) Minimum requirements for patient transfer agreements. Patient transfer agreements shall include specific language that is consistent with the following:

(1) the Indigent Health Care Treatment Act, in accordance with §131.66(a)(6) of this title (relating to Patient Transfer Policy);

(2) discrimination, in accordance with §131.66(b)(1) of this title;

(3) patient's right to request transfer, in accordance with §131.66(b)(2) of this title;

(4) transfer of patients with emergency medical conditions, in accordance with §131.66(b)(5) of this title;

(5) physician's duties and standard of care, in accordance with §131.66(b)(6) of this title;

(6) medical records, in accordance with §131.66(b)(8) of this title; and

(7) memorandum of transfer, in accordance with §131.66(b)(9) of this title.

(c) Review of transfer agreements.

(1) In order that the department may review the transfer agreements for compliance with the minimum requirements, the facility shall submit the following documents to the department:

(A) a copy of the current or proposed agreement signed by the representatives of the facility and the hospital;

(B) the date of the adoption of the agreement; and

(C) the effective date of the agreement.

(2) The department may waive the submittal of the documents required under paragraph (1) of this subsection to avoid the repetitious submission of required documentation and approved agreements.

(3) If a governing body or a governing body's designee executes a transfer agreement and the entire text of that agreement consists of the entire text of an agreement that has been previously approved by the department, the governing body or the governing body's designee is not required to submit the later agreement for review. On the date the later agreement is fully executed and before the later agreement is implemented, the governing body or the governing body's designee must give adequate notice to the department that the later agreement has been executed.

(4) The department shall review the agreement not later than 30 calendar days after the date the department receives the agreement to determine if the agreement is consistent with the requirements of this section.

(5) After the department's review of the agreement, if the department determines that the agreement is consistent with the requirements contained in this section, the department shall notify the facility administration that the agreement has been approved.

(6) If the department determines that the agreement is not consistent with the requirements contained in this section, the department shall give notice to the facility administration that the agreement is deficient and provide recommendations for correction.

(7) A transfer agreement will be considered in compliance if it is consistent with the rules that were in effect at the time the transfer agreement was executed and approved by the department.

(d) Amendments to an agreement.

(1) The governing body of a facility or governing body's designee may adopt proposed amendments to a transfer agreement that has been approved by the department. Before the facility implements the amendments, the governing body or the governing body's designee shall submit the proposed amendments to the department for review in the same manner as the agreement to be amended was submitted.

(2) The department shall review the amendments and shall approve or reject them in the same manner as provided for the review of the agreement to be amended.

(e) Complaints. Complaints alleging a violation of a transfer agreement shall be treated in the same manner as complaints alleging violations of the Act or this chapter.

§131.68. Miscellaneous Policies and Protocol.

The facility shall adopt, implement, and enforce protocols to be used in determining death and for filing autopsy reports that comply with Health and Safety Code, Chapter 671, Determination of Death and Autopsy Reports.

SUBCHAPTER D. INSPECTION AND INVESTIGATION PROCEDURES

§131.81. Inspection and Investigation Procedures.

(a) The department may conduct an inspection of each facility before issuing an initial license or a renewal of a facility license.

(b) Complaint investigations.

(1) Complaint investigations are conducted if the department finds that reasonable cause exists to believe that the facility has violated provisions of the Act, this chapter, special license conditions, or orders of the commissioner of state health services.

(2) Complaints received by the department concerning abuse and neglect, or illegal, unprofessional, or unethical conduct will be conducted in accordance with §131.60 of this title (relating to Abuse and Neglect).

(3) Complaint investigations are unannounced.

(4) Following the investigation of a complaint, the department shall notify the complainant if the complaint was substantiated and if regulatory violations were identified or if no violations were found.

(c) Re-inspection.

(1) The department may conduct re-inspection if a facility applies for the reissuance of its license after the suspension or revocation of the facility's license, the

assessment of administrative or civil penalties, or the issuance of an injunction against the facility for violations of the Act, this chapter, a special license condition, or an order of the commissioner.

(2) A re-inspection may be conducted to ascertain compliance with either health or construction requirements or both.

(d) General.

(1) The department may make any inspection, survey, or investigation that it considers necessary. A representative of the department may enter the premises of a facility at any reasonable time to make an inspection or an investigation to ensure compliance with or prevent a violation of the Act, the rules adopted under the Act, an order or special order of the commissioner, a special license provision, a court order granting injunctive relief, or other enforcement procedures. Ensuring compliance includes permitting photocopying of any records or other information by or on behalf of the department as necessary to determine or verify compliance with the Act or rules adopted under the Act, except that the department may not photocopy, reproduce, remove or dictate from any part of the root cause analysis or action plan required under §131.63 of this title (relating to Patient Safety Program).

(2) The department or a representative of the department is entitled to access to all books, records, or other documents maintained by or on behalf of the facility to the extent necessary to enforce the Act, this chapter, an order or special order of the commissioner, a special license provision, a court order granting injunctive relief, or other enforcement procedures. The department shall maintain the confidentiality of facility records as applicable under federal or state law.

(3) By applying for or holding a facility license, the facility consents to entry and inspection or investigation of the facility by the department or a representative of the department in accordance with the Act and this chapter.

(e) Inspection and investigation protocol.

(1) The department surveyor(s) shall hold a conference with the facility administrator or designee before beginning the on-site inspection or investigation to explain the nature, scope, and estimated time schedule of the inspection or investigation.

(2) Department surveyor(s) may conduct interviews with any person with knowledge of the facts.

(3) The department surveyor(s) shall inform the facility administrator or designee of the preliminary findings of the inspection or investigation and shall give the person a reasonable opportunity to submit additional facts or other information to the department's authorized representative in response to those findings.

(4) Following an inspection or investigation of a facility by the department, the department surveyor(s) shall hold an exit conference with the facility administrator or designee and other invited staff and provide the following to the facility administrator or designee:

- (A) the specific nature of the inspection or investigation;
- (B) any alleged violations of a specific statute or rule;
- (C) identity of any records that were duplicated;
- (D) the specific nature of any finding regarding an alleged violation or deficiency;
- (E) if the deficiency is alleged, the severity of the deficiency; and
- (F) if there are no deficiencies found, a statement indicating this fact.

(5) If deficiencies are cited, the facility must submit the plan of correction to the department surveyor not later than the 10th working day after the facility receives the statement of deficiencies. The plan of correction must specify the date by which correction will be made and any comments concerning the inspection or investigation. Additional facts, written comments, or other information the facility provides in response to the statement of deficiencies shall be made a part of the record of the inspection or investigation for all purposes.

(6) The department surveyor(s) shall obtain the signature of the facility administrator or designee acknowledging the receipt of the statement of deficiencies and plan of correction form.

(7) The department surveyor(s) shall inform the administrator or designee of the facility's right to an informal administrative review when there is disagreement with the surveyor's findings and recommendations or when additional information bearing on the findings is available.

(8) If the department does not accept the plan of correction, the department shall notify the facility in writing. The facility shall resubmit a revised plan of correction not later than the 10th working day after the facility receives the department's written notice. After the department receives an acceptable plan of correction, the department shall send the facility written notice acknowledging that the department has received an acceptable plan of correction.

(9) The facility may respond to the department by facsimile.

(10) The facility shall come into compliance by the completion date provided on the statement of deficiencies and plan of correction form.

(11) The department shall verify the correction of deficiencies either by mail or by an on-site inspection or investigation.

(12) Acceptance of a plan of correction does not preclude the department from taking enforcement action under §131.101 of this title (relating to Enforcement Actions).

(f) Release of information by the department.

(1) Upon written request, the department shall provide information on the identity, including the signature, of each department representative conducting, reviewing, or approving the results of the inspection or investigation, and the date on which the department representative acted on the matter.

(2) Upon written request, the department shall release inspection documents in accordance with state and federal law.

§131.82. Complaint Against a Department Surveyor.

(a) A facility may register a complaint against a department surveyor who conducts an inspection or investigation in accordance with §131.81 of this title (relating to Inspection and Investigation Procedures).

(b) A complaint against a surveyor shall be registered with the Patient Quality Care Unit, Department of State Health Services, Mail Code 1979, P.O. Box 149347, Austin, Texas 78714-9347, telephone (512) 834-6650 or (888) 973-0022.

(1) A complaint against a surveyor that is received by telephone will be referred within two working days to the appropriate supervisor. The caller will be requested to submit the complaint in writing.

(2) When a complaint is received in writing, it will be forwarded to the appropriate supervisor within two working days. Within 10 calendar days of receipt of the complaint, the department will inform the complainant in writing that the complaint has been forwarded to the appropriate supervisor.

(3) Within 10 calendar days of the supervisor's receipt of the complaint, the supervisor will notify the complainant in writing that an investigation will be conducted.

(4) The supervisor will review the documentation in the survey packet and interview the surveyor identified in the complaint to obtain facts and assess the objectivity of the surveyor in the surveyor's application of this chapter during the facility's inspection or investigation.

(5) The supervisor will review the applicable rules, personnel policies, and review the training and qualifications of the surveyor as it relates to the inspection or investigation.

(6) The supervisor will document the investigation. A report of the investigation will be placed in the facility's file if the complaint and investigation affected the inspection

process. A counseling form will be used and placed in the surveyor's personnel file if the complaint relates to personnel performance.

(7) The supervisor shall offer to meet with the complainant to resolve the issue. The surveyor identified in the complaint will participate in the discussion. The resolution meeting may be conducted at the division's office or during an on-site follow-up visit to the facility.

(8) Changes and deletions will be made to the inspection report, if necessary.

(9) The supervisor will notify the complainant in writing of the status of the investigation within 30 calendar days of the date the supervisor received the complaint.

(10) The supervisor will forward all final documentation to the director of the Patient Quality Care Unit and notify the complainant of the results.

SUBCHAPTER E. ENFORCEMENT

§131.101. Enforcement Actions.

(a) The department has jurisdiction to enforce the Act and the rules in this chapter.

(b) The department may deny, suspend, or revoke a license for a violation of the Act or this chapter.

(c) The department may deny, suspend, or revoke a license or impose an administrative penalty if the licensee or applicant:

(1) fails to comply with any provision of the Act;

(2) fails to comply with any provision of this chapter or any other applicable laws;

(3) fails to comply with a special license condition;

(4) fails to comply with an order of the department or another enforcement procedure under the Act;

(5) has a history of failure to comply with the rules in this chapter relating to patient environment, health, safety, and rights which reflects more than nominal noncompliance;

(6) has aided, committed, abetted, or permitted the commission of an illegal act;

(7) has committed fraud, misrepresentation, or concealment of a material fact on any documents required to be submitted to the department or required to be maintained by the facility under the Act;

- (8) fails to provide an adequate application or renewal information;
- (9) fails to timely pay assessed administrative penalties in accordance with the Act;
- (10) fails to comply with applicable requirements within a designated probation period;
- (11) fails to implement plans of corrections to deficiencies cited by the department; or
- (12) fails to comply with applicable requirements within a designated probation period.

(d) The denial, suspension, or revocation of a license by the department and the appeal from that action are governed by the procedures for a contested case hearing under Government Code, Chapter 2001.

§131.102. Denial of a License.

The department may deny a license if the applicant:

(1) fails to provide timely and sufficient information that is required by the department and that is directly related to the application; or

(2) has had the following actions taken against the applicant within the two-year period preceding the application:

(A) decertification or cancellation of its contract under the Medicare or Medicaid program in any state;

(B) federal Medicare or state Medicaid sanctions or penalties;

(C) unsatisfied federal or state tax liens;

(D) unsatisfied final judgments;

(E) eviction involving any property or space used as a health care facility in any state;

(F) unresolved state Medicaid or federal Medicare audit exceptions;

(G) denial, suspension, or revocation of a license for any health care facility in any state; or

(H) a court injunction prohibiting ownership or operation of any health care facility.

§131.103. Suspension; Revocation.

(a) The department may suspend or revoke an existing valid license or disqualify a person from receiving a license because of a person's conviction of a felony or misdemeanor, if the crime directly relates to the duties and responsibilities of the ownership or operation of a health care facility.

(b) In determining whether a criminal conviction directly relates, the department shall consider the provisions of Occupations Code, Chapter 53, Subchapter B (relating to Ineligibility for License).

(c) The following felonies and misdemeanors directly relate because these criminal offenses indicate an ability or a tendency for the person to be unable to own or operate a health care facility:

(1) a misdemeanor violation of the Act;

(2) a misdemeanor or felony involving moral turpitude;

(3) a conviction relating to deceptive business practices;

(4) a misdemeanor of practicing any health-related profession without a required license;

(5) a conviction under any federal or state law relating to drugs, dangerous drugs, or controlled substances;

(6) an offense under the Penal Code, Title 5, involving a patient or a client of any health care facility, a home and community support services agency, or a health care professional;

(7) a misdemeanor or felony offense under the Penal Code, as follows:

(A) Title 4 concerning offenses of attempting or conspiring to commit any of the offenses in this subsection;

(B) Title 5 concerning offenses against the person;

(C) Title 7 concerning offenses against property;

(D) Title 9 concerning offenses against public order and decency; or

(E) Title 10 concerning offenses against public health, safety, and morals;
and

(8) other misdemeanors and felonies that indicate an inability or tendency for the person to be unable to own or operate a facility.

(d) Upon a licensee's felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision, the license shall be revoked.

§131.104. Emergency Suspension.

(a) The department may issue an emergency order to suspend a facility's license if the department has reasonable cause to believe that the conduct of a license holder creates an immediate danger to the public health and safety.

(b) An emergency suspension under this section is effective immediately without a hearing or notice to the license holder.

(c) On written request of the license holder, the department shall conduct a hearing not earlier than the 10th day or later than the 30th day after the date the hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded.

(d) A hearing and any appeal under this section are governed by the department's rules for a contested case hearing and Government Code, Chapter 2001.

§131.105. Probation.

(a) If the department finds that a facility is in repeated noncompliance with the Act or this chapter but that the noncompliance does not endanger public health and safety, the department may schedule the facility for probation rather than suspending or revoking the facility's license.

(b) The department shall provide notice to the facility of the probation and of the violations not later than the 10th day before the date the probation period begins. The notice shall include the violations that resulted in placing the facility on probation.

(c) The department shall designate a period of not less than 30 days during which the facility remains under probation.

(d) During the probation period, the facility shall correct the violations and provide a written report that describes the corrective actions taken to the department for approval.

(e) The department may verify the corrective actions through an on-site inspection.

(f) The department may suspend or revoke the license of a facility that does not correct violations or that violates the Act or this chapter within the applicable probation period.

§131.106. Injunction.

(a) The department may petition a district court for a temporary restraining order to restrain a continuing violation if the department finds that the violation creates an immediate threat to the health and safety of the patients of a facility.

(b) A district court, on petition of the department and on a finding by the court that a person is violating the standards or licensing requirements provided under the Act, may by injunction:

(1) prohibit a person from continuing a violation;

(2) restrain or prevent the establishment or operation of a facility without a license issued under the Act; or

(3) grant any other injunctive relief warranted by the facts.

(c) The attorney general shall institute and conduct a suit authorized by this section at the request of the department.

(d) Venue for a suit brought under this section is in the county in which the facility is located or in Travis County.

§131.107. Criminal Penalty.

(a) A person commits an offense if the person violates Health and Safety Code, §254.051.

(b) An offense under this section is a Class C misdemeanor.

(c) Each day of a continuing violation constitutes a separate offense.

§131.108. Administrative Penalty.

(a) The department may impose an administrative penalty on a person licensed under the Act who violates the Act, this chapter, or an order adopted under this chapter. A penalty collected under this section or §131.109 of this title (relating to Payment and Collection of Administrative Penalty; Judicial Review) shall be deposited in the state treasury in the general revenue fund.

(b) A proceeding to impose the penalty is a contested case under Government Code, Chapter 2001.

(c) The amount of the penalty may not exceed \$1,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total

amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$5,000.

(d) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith efforts to come into compliance;
and

(6) any other matter that justice may require.

(e) If the department initially determines that a violation occurred, the department shall give written notice of the report by certified mail to the person.

(f) The notice under subsection (e) of this section must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(g) Not later than the 20th day after the date the person receives the notice under subsection (e) of this section, the person in writing may:

(1) accept the determination and recommended penalty of the department; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the commissioner of state health services by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the commissioner of state health services shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date

and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner of state health services a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner of state health services by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(l) The notice of the order under subsection (k) of this section that is sent to the person in accordance with Government Code, Chapter 2001, must include a statement of the right of the person to judicial review of the order.

§131.109. Payment and Collection of Administrative Penalty; Judicial Review.

(a) Not later than the 30th day after the date an order imposing an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the commissioner's order contesting the occurrence of the violation, the amount of the penalty, or both.

(b) A person who files a petition for judicial review under subsection (a) of this section may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the commissioner's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the executive commissioner by certified mail.

(c) If the commissioner of state health services receives a copy of an affidavit requesting a court to stay enforcement of a penalty, the commissioner may file with the court, not later than the fifth business day after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

(d) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected. The attorney general may sue to collect the penalty.

(e) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(f) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

(g) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person not later than the 30th day after the date that the judgment of the court becomes final. The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(h) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond. If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

SUBCHAPTER F. FIRE PREVENTION AND SAFETY REQUIREMENTS

§131.121. Fire Prevention, Protection, and Emergency Contingency Plan.

(a) A facility shall comply with the provisions of this section with respect to fire prevention and protection.

(1) A facility shall comply with local fire codes.

(2) All incidents of fire shall be reported to the local fire authority and shall be reported in writing to the Department of State Health Services, Facility Licensing Group, Mail Code 1979, P.O. Box 149347 Austin, Texas 78714-9347, as soon as possible, but not later than 10 calendar days following the incident. Any fire incident causing injury to a person shall be reported no later than the next business day.

(3) A facility shall adopt, implement, and enforce a written smoking policy.

(b) A facility shall adopt, implement, and enforce a written policy for periodic inspection, testing, and maintenance of fire fighting equipment, portable fire extinguishers, and when installed sprinkler systems. If installed, fire sprinkler systems shall comply with National Fire Protection Association 13, Standard for the Installation of Sprinkler Systems, 2002 Edition (NFPA 13). All documents published by National Fire Protection Association (NFPA) as referenced in this section may be obtained by writing or calling the NFPA at the following address or telephone number: National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101 or (800) 344-3555. NFPA documents are also available for public inspection during regular working hours at the offices of Architectural Review Group, Texas Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3199.

(1) All fire sprinkler systems, fire pumps, fire standpipe and hose systems, water storage tanks, and valves and fire department connections shall be inspected, tested, and maintained in accordance with National Fire Protection Association 25, Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems, 2002 Edition.

(2) Every portable fire extinguisher located in a facility or upon facility property shall be installed, tagged, and maintained in accordance with National Fire Protection Association 10, Standard for Portable Fire Extinguishers, 2002 Edition.

(c) A plan for the protection of patients in the event of fire and their evacuation from the building when necessary shall be formulated according to NFPA 101, §21.7.1.1 Copies of the plan shall be available to all staff.

(1) An evacuation floor plan shall be prominently and conspicuously posted for display throughout the facility in public areas that are readily visible to patients, employees, and visitors.

(2) Each facility shall conduct an annual training program for instruction of all personnel in the location and use of fire fighting equipment. All employees shall be instructed regarding their duties under the fire protection and evacuation plan.

(3) The facility shall conduct one fire drill per shift per quarter. The governing body of the facility shall define working shifts for the facility. Fire drills shall include the transmission of the fire alarm signal and simulation of the emergency fire condition, simulation of evacuation of patients and other occupants, and use of fire-fighting equipment. Written reports

shall be maintained to include evidence of patient and staff participation. Fire exit drills shall incorporate the minimum requirements of NFPA 101, §§21.7.1.2 through 21.7.2.3.

(4) All staff shall be familiar with the locations of fire fighting equipment. Fire fighting equipment shall be located so that a person shall not have to travel more than 75 feet from any point to reach the equipment.

(d) A fire alarm system shall be installed, maintained, and tested, in accordance with National Fire Protection Association 72, National Fire Alarm Code, 2002 Edition (NFPA 72) and NFPA 101, §21.3.4.

(e) A reliable communication system shall be provided as a means of reporting a fire to the fire department. This is in addition to the automatic alarm transmission to the fire department required by NFPA 101, §21.3.4.4.

(f) As an aid to fire department services, every facility shall provide the following:

(1) The facility shall maintain driveways, free from all obstructions, to main buildings for fire department apparatus use.

(2) Upon request, the facility shall submit a copy of the floor plans of the building to the local fire department officials.

(3) The facility shall place proper identification on the outside of the main building showing the locations of siamese connections and standpipes as required by the local fire department services.

(g) When a facility is located outside of the service area or range of the public fire protection, arrangements shall be made to have the nearest fire department respond in case of a fire.

(h) The facility shall provide an emergency contingency plan for the continuity of emergency essential building systems. The emergency contingency plan shall consist of one of the two options as described in paragraphs (1) and (2) of this subsection.

(1) An onsite emergency generator shall be provided with a Type II essential electrical distribution system in accordance with requirements of NFPA 99, §4.5, and National Fire Protection Association 110, Standard for Emergency and Standby Power Systems, 2002 Edition.

(A) The minimum electrical load connection shall be in accordance with NFPA 99 §4.5.2.

(B) An emergency generator standby power system(s) shall require an onsite fuel source and enough fuel capacity in the tank for a period of twenty-four hours or more. The facility shall execute contract(s) with the supplier/vendor(s) for fuel on demand. When a

vapor liquefied petroleum gas (LPG) (natural gas) system is used, the twenty-four hour fuel capacity onsite is not required. The vapor withdrawal LPG system shall require a dedicated fuel supply.

(C) The emergency generator shall be installed, tested and maintained in accordance with the National Fire Protection Association 99, §4.5.4, and National Fire Protection Association 110, Standard for Emergency and Standby Power Systems, 2002 Edition.

(2) An executed contract(s) with an outside supplier/vendor that will provide a portable emergency generator(s) and fuel.

(A) An electrical transfer switch with plug-in device sized to provide emergency power for the patient care areas and the provisions in NFPA 99, §4.5.2.2.2.

(B) An alternate source of power (battery power lighting) shall be provided separate and independent from the normal electrical power source that will be effective for a minimum of one and one half hours after loss of the electrical power. The emergency lighting system shall be capable of providing sufficient illumination to allow safe evacuation from the building. The battery pack systems shall be maintained and tested quarterly.

(C) The facility shall implement the emergency contingency plan upon the loss of electrical power following a natural weather or man-made event when the electrical power may not be restored within 24 hours. The facility shall exercise the contract(s) with the supplier/vendor(s) in order to have portable emergency generator(s) and potable water available within 36 hours after the loss of electrical power.

(i) The facility premises shall be kept free from accumulations of combustible materials not necessary for immediate operation of the facility.

§131.122. General Safety.

(a) The governing body shall appoint a safety officer who is knowledgeable in safety practices in health care facilities. The safety officer shall carry out the functions of the safety program.

(b) Safety activities.

(1) The safety officer shall establish an incident reporting system which includes a mechanism to ensure that all incidents recorded are evaluated, and documentation is provided to show follow-up and corrective actions.

(2) Safety policies and procedures for the facility shall be developed, implemented, and enforced.

(3) Safety training shall be established as part of new employee orientation and in the continuing education of all employees.

(c) The authority of the safety officer to take action, when conditions exist that are a possible threat to life, health, or building damage, shall be defined in writing and approved by the governing body.

(d) Each department or service shall have a safety manual describing safety policies and procedures within their own areas and become part of the overall facility safety manual.

(e) An emergency communication system, such as radio-frequency communication devices, battery operated emergency phone, or cellular telephones, shall be provided in each facility. The system shall be self-sufficient and capable of operating without reliance on the building's service or emergency power supply. Such system shall have the capability of communicating with the available community or state emergency networks, including police and fire departments.

(f) No portable or ceiling fans shall be utilized in any patient treatment areas, exam areas, holding areas, imaging areas, diagnostic areas, clean and sterile environments.

(g) Electrical extension cords and cables shall not be used for permanent wiring. When temporary electrical cords or cables are used, they shall be secured and protected to prevent tripping.

(h) A nurse's emergency calling system shall be installed in the all treatment room/area station(s), exam rooms/area station(s), isolation room(s), patient holding stations, imaging, diagnostic and patient toilet room(s) to summon nursing staff in an emergency. Activation of the system shall sound a distinct audible signal which repeats every five seconds or less at the nurse station, indicate type and location of call on the system monitor, and activate a distinct visible signal in all areas. The activation of the system shall also activate distinct visible signals in the clean workroom, soiled workroom, and if provided, in the nourishment station. The visible and audible signals shall be cancelable only at the patient calling station. A nurse's emergency call system shall be accessible to a collapsed patient lying on the floor. Inclusion of a pull cord extending to within 6 inches of the floor will satisfy this requirement.

(i) A staff emergency assistance calling system station shall be located in each treatment room/area, examination room/area, trauma room/area, and holding room/area to be used by staff to summon additional help in an emergency. Activation of the system shall sound an audible signal at a staffed location, indicate type and location of call on the system monitor, and activate a distinct visible signal in the corridor at the door. Additional visible signals shall be installed at corridor intersections in multi-corridor facilities. Distinct visible and audible signals shall be activated in the clean workroom, in soiled workroom, equipment storage, and if provided, in the nourishment station.

(j) Doors to any treatment, exam, or isolation rooms shall not be lockable from inside the room.

(k) When construction takes place during any treatments, exams, and diagnostics, adequate provision shall be made for the safety and comfort of patients. Temporary sound barriers shall be provided where intense prolonged construction noises will disturb patients or staff in the occupied portions of the building during patient treatment times.

(l) When construction occurs after hours or on weekends, the facility shall thoroughly clean all areas of construction and provide a clean safe environment before treating patients.

(m) A facility shall provide a physical environment that protects the health, safety, and welfare of patients, personnel, and the public. The physical premises and the environment of the facility and those areas of the facility's surrounding physical structure that are used by the patients (including all stairwells, corridors, and passageways) shall meet the local building and fire safety codes as they relate to safe access and patient privacy.

§131.123. Handling and Storage of Gases, Anesthetics, and Flammable Liquids.

(a) If flammable germicides, including alcohol-based products, are used for surgical skin preparation, the facility must:

(1) use only self-contained, single-use, pre-measured applicators to apply the surgical skin preparations;

(2) follow all manufacturer product safety warnings and guidelines;

(3) develop, implement and enforce written policies and procedures outlining the safety precautions required related to the use of the products, which, at a minimum, must include minimum drying times, prevention and management of product pooling, parameters related to draping and the use of ignition sources, staff responsibilities related to ensuring safe use of the product, and documentation requirements sufficient to evaluate compliance with the written policies and procedures;

(4) ensure that all staff working in the surgical environment where flammable surgical skin preparation products are in use have received training on product safety and the facility policies and procedures related to the use of the product;

(5) develop, implement and enforce an interdisciplinary team process for the investigation and analysis of all flammable germicide fires and alleged violations of the policies; and

(6) report all occurrences of flammable germicide fires to the department in care of the Facility Licensing Group not later than the second business day after the fire, and complete an investigation of the occurrence and develop and implement a corrective action plan not later than the 30th day after the fire.

(b) Alcohol-based hand rubs (ABHRs) are considered flammable. When used, the ABHRs shall meet the following requirements.

(1) The dispensers may be installed in a corridor so long as the corridor width is six feet or greater. The dispensers shall be installed at least four feet apart.

(2) The maximum individual dispenser fluid capacity is 1.2 liters for dispensers in rooms, corridors, and areas open to corridors, and 2.0 liters for dispensers in suites of rooms.

(3) The dispensers shall not be installed over or directly adjacent to electrical outlets and switches.

(4) Dispensers installed directly over carpeted surfaces shall be permitted only in sprinklered smoke compartments.

(5) Each smoke compartment may contain a maximum aggregate of 10 gallons of ABHR solution in dispensers and a maximum of five gallons in storage.

(c) An facility shall comply with the requirements of this section for handling and storage of gas and flammable liquids. Flammability of liquids and gases shall be determined by National Fire Protection Association 329, Handling Releases of Flammable and Combustible Liquids and Gases, 2002 Edition.

(1) Nonflammable gases, including but not limited to oxygen and nitrous oxide, shall be stored and distributed in accordance with Chapter 5 of the National Fire Protection Association 99, Standard for Health Care Facilities, 2002 edition (NFPA 99). All documents published by National Fire Protection Association (NFPA) as referenced in this section may be obtained by writing or calling the NFPA at the following address or telephone number: National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101 or (800) 344-3555. NFPA documents are also available for public inspection during regular working hours at the offices of Architectural Review Group, Texas Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3199.

(A) Medical gases and liquefied medical gases shall be handled in accordance with the requirements of NFPA 99, Chapter 9.

(B) Oxygen shall be administered in accordance with NFPA 99, §9.6.

(C) When inhalation anesthetic agents are used, the ventilation requirements shall be in accordance with the requirements of NFPA 99, §13.4.1.2.

(2) Piped flammable gas systems intended for use in laboratories and piping systems for fuel gases shall comply with requirements of NFPA 99, §11.11.

(3) Flammable gases shall be stored in accordance with NFPA 99, §11.10.

(4) Flammable and combustible liquids used in laboratories shall be handled and stored in accordance with NFPA 99, §11.7, and National Fire Protection Association 101, Life Safety Code, 2003 edition, §18.3.2.2.

(5) Other flammable agents shall be stored in accordance with NFPA 99, Chapter 7.

(d) No motor vehicles including gasoline powered standby generators or any amount of gasoline shall be located within the facility building. Other devices which may cause or communicate fire, and which are not necessary for patient treatment or care, shall not be stored within the facility building. All such devices and materials when necessary shall be used within the building only with precautions ensuring a reasonable degree of safety from fire.

(e) The installation, use, and maintenance of gas fired appliances and gas piping installations shall comply with the National Fire Protection Association 54, National Fuel Gas Code, 2002 Edition. The use of portable gas heaters and unvented open flame heaters is specifically prohibited.

SUBCHAPTER G. PHYSICAL PLANT AND CONSTRUCTION REQUIREMENTS

§131.141. Construction Requirements for a Pre-Existing Facility.

(a) A facility that is operating before the effective date of this chapter is considered to be a pre-existing facility and shall meet the physical plant and construction requirements under this chapter.

(b) A pre-existing facility shall complete all major remodeling, renovations, additions, and alterations in accordance with the requirements for new construction in §131.143 of this title (relating to Construction Requirements for a New Facility). All areas of a pre-existing facility that are not part of a major remodel, renovation, addition or alteration to the facility, are not required to meet these new construction requirements as long as the existing portion met the codes that were in effect when it was originally constructed and licensed. When existing conditions make such changes impractical, the department may grant a conditional approval of minor deviations from the requirements of §131.143 of this title, if the intent of the requirements is met and if the care, safety and welfare of patients will not be jeopardized. The operation of the facility, accessibility of individuals with disabilities, and safety of the patients shall not be jeopardized by a condition(s) which is not in compliance with this subchapter.

(1) Any alteration, modification, replacement, or installation of new building equipment (such as mechanical, electrical, emergency power equipment, energy/utility management, conveying systems, plumbing, fire protection, or other equipment), with a primary function of building service that affects life safety, infection control, functional operation, or the health, safety, and welfare of patients and staff shall comply with the requirements for new construction and shall not be replaced, materially altered, or extended in a pre-existing licensed facility until complete plans and specifications have been submitted to the department, and the department has reviewed and approved the plans and specifications in accordance with §131.146

of this title (relating to Preparation, Submittal, Review and Approval of Plans, and Retention of Records).

(2) Minor remodeling or alterations within an existing facility which do not involve alterations to load-bearing members and partitions, change functional operation, affect fire safety, or involve any of the major changes listed in paragraph (1) of this subsection are considered to be minor projects and require evaluation and approval by the department. A pre-existing licensed facility shall submit by mail or fax a written request and floor plan for evaluation, a brief description of the proposed changes, floor plan, and sketches of the area being remodeled. Based on such submittal, the department shall evaluate and determine whether any additional submittals or inspections are required. The department shall notify the facility of its decision. The patching, restoration, or painting of materials, elements, equipment, or fixtures for the purpose of maintaining such materials, elements, equipment, or fixtures in good or sound condition would not require submission to the department for approval.

(3) All remodeling or alterations which involve alterations to load-bearing members or partitions, change functional operation, or affect fire safety are considered major projects. A facility shall comply with this section before beginning construction of major projects.

(A) Plans shall be submitted in accordance with this section for all major remodeling or alterations.

(B) Construction projects involving alterations of or additions to existing buildings shall be programmed and phased so that on-site construction shall minimize disruptions of existing functions.

(i) Access, exit access, and fire protection shall be maintained so that the safety of the occupants shall not be jeopardized during construction.

(ii) A noncombustible or limited combustible dust and vapor barrier shall be provided to separate areas undergoing demolition and construction from occupied areas. When a fire retardant plastic material is used for temporary daily usage, it shall be removed at the end of each day.

(iii) The air inside the construction area shall be protected by mechanical filtration that recirculates inside the space or is exhausted directly to the exterior.

(iv) The area shall be properly ventilated and maintained. The area under construction shall have a negative air pressure differential to the adjoining areas and shall continue to operate as long as construction dust and odors are present.

(v) Temporary sound barriers shall be provided where intense prolonged construction noises will disturb patients or staff in the occupied portions of the building during patient treatment times.

(vi) When construction occurs after hours or on weekends, the facility shall thoroughly clean all areas of construction and provide a clean safe environment before treating patients. The facility shall ensure that all fire safety protection and building systems are in place and working properly.

(c) Pre-existing facilities shall be easily accessible to the community and to service vehicles such as delivery trucks, ambulances, and fire protection apparatus.

(1) The facility site shall include paved roads, walkways, and parking in accordance with local building codes and ordinances.

(2) Pre-existing licensed facilities shall comply with the Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, 42 United States Code, Chapter 126, and Title 36, Code of Federal Regulations, Part 1191, Appendix A, Accessibility Guidelines for Buildings and Facilities or 16 TAC, §68.20 (relating to Buildings and Facilities Subject to Compliance with the Texas Accessibility Standards), Texas Accessibility Standards (TAS), April 1, 1994 edition, issued by the Texas Department of Licensing and Regulation, under the Texas Architectural Barriers Act, Government Code, Chapter 469.

(d) Spatial requirements.

(1) Administration and public areas.

(A) A primary entrance at grade level shall be accessible.

(B) A main lobby shall be located at the primary entrance and shall include a reception and information counter or desk, waiting space(s), public toilet facilities located convenient to the lobby/waiting area, and storage room or alcove for wheelchairs. Private interview area may be omitted if all interviews occur in treatment or exam rooms.

(2) Emergency Entrance and Signage.

(A) An ambulance entrance at grade level shall be well-illuminated.

(B) Emergency entry signage. An emergency sign shall be provided at the entry from the public road(s) or street(s) serving the site.

(C) A facility that is not in continuous operation 24 hours per day and 7 days per week shall display clearly visible signage at the main entry and ambulance entry points of the facility. The signage letter size shall be readable and not smaller than half an inch in height. The signage shall provide the information required under §131.22(c) of this title (relating to Classifications of Facilities).

(D) A facility that is not in continuous operation shall comply with the requirements under §133.22(d) of this title.

(3) Emergency suite.

(A) Control station/nurse station shall be located to permit staff observation and control of access to treatment room(s), exam rooms, pedestrian and ambulance entrances, and public waiting area(s). The nurse station shall contain cabinets, work counter, and a hand washing fixture with hands-free operable controls.

(B) A medical staff work area and charting area(s) shall be provided. The area may be combined with the control station/nurse station.

(C) As a minimum requirement, all pre-existing facilities shall provide at least one emergency treatment room to handle emergencies. The emergency treatment room shall contain cabinets, work counter, examination light, and a hand washing fixture with hands-free operable controls.

(D) As a minimum requirement, all pre-existing facilities shall provide at least one exam room. The examination room shall contain cabinets, work counter, examination light, and a hand washing fixture with hands-free operable controls.

(E) Storage space shall be provided within the room or suite and be under staff control for general medical-surgical emergency supplies and medications. Adequate space shall be provided for emergency equipment such as emergency treatment trays, ventilator, defibrillator, splints, cardiac monitor, etc.

(F) An area or alcove located out of traffic and convenient to the treatment and exam room(s) shall be provided for an emergency crash cart.

(G) An alcove shall be provided for stretcher and wheelchair storage. The storage for stretchers and wheelchairs shall be located out of the line of traffic.

(H) A nourishment station shall be provided containing a work counter with sink, microwave, refrigerator and storage cabinets and not located in the clean workroom. When the patient nourishment refrigerator is located in the staff lounge, the refrigerator shall be labeled "patient refrigerator."

(I) An ice machine supplying ice for therapeutic purposes, when provided, shall be located in the clean utility room or similar clean space. A self-dispensing ice machine shall be provided for ice for human consumption.

(J) Patient toilet room(s) shall be provided and shall be convenient to treatment rooms, examination rooms, and trauma rooms a hand washing fixture with hands-free operable controls.

(K) Staff toilets shall be provided and may be outside the suite but shall be convenient for staff use and include hand washing fixtures with hands-free operable controls.

(L) A clean storage room shall be provided for clean supplies, linens and medications as needed. A hand washing fixture shall be provided within the room with hands-free operable controls.

(M) Soiled workroom shall be provided and contain a work counter, a clinical sink or equivalent flushing type fixture, hand washing fixture with hands-free operable controls, waste receptacles, and soiled linen receptacles.

(4) Medication storage. A medication work room or alcove shall be provided and located separate from patient and public areas and under the direct supervision of staff. A work counter, refrigerator, medication storage, and locked storage for biologicals and drugs shall be provided. A hand washing fixture with hands-free operable controls shall be located in the medication storage room or alcove.

(A) Functional space shall be provided and areas required for records, reports, and accounting activities.

(B) Space for the poison control center shall be provided with storage facilities for reaction data and drug information centers.

(5) Diagnostic radiographic (X-ray). A diagnostic radiographic (X-ray) room shall be provided and be readily available to the emergency suite.

(A) Clearance and unobstructed space shall not be less than three feet around the diagnostic equipment.

(B) When the facility is equipped with digital imaging system capabilities, a minimum of two X-ray film illuminators viewers shall be provided and mounted in a central location.

(6) Computed tomography (CT) scanning. A CT room shall be provided and be readily available to the emergency suite. Clearance and unobstructed space shall be not less than three feet on each side of the diagnostic table.

(A) A control room shall be provided with a view window permitting view of the patient. The control room shall be located to allow convenient film processing.

(B) A patient toilet shall be provided convenient to the CT room. The toilet room shall have a hand washing fixture with hands-free operable controls.

(7) Laboratory services. Laboratory room or work area shall be provided with the following minimum facilities.

(A) The laboratory work room(s) shall include counter(s), space appropriately designed for laboratory equipment, and sink(s) with hands-free operable controls.

(B) Each laboratory room or work area shall be provided with a hand washing fixture(s) with hands-free operable controls.

(C) General storage, including refrigeration for reagents, standards, supplies, and stained specimen microscope slides, etc. shall be provided. Separate facilities shall be provided for such incompatible materials as acids and bases, and vented storage shall be provided for volatile solvents.

(D) A refrigerator and other necessary equipment shall be provided for specimen storage waiting for transfer to off-site testing.

(E) Specimen room/area for blood collection shall be provided with a counter, space for seating, and hand washing fixture with hands-free operable controls. A toilet and lavatory with hands-free operable controls shall be provided for specimen collection. This facility may be outside the laboratory area if conveniently located.

(F) When chemical safety is a requirement, an emergency shower and eye flushing devices shall be provided.

(G) Flammable or combustible liquids, when used, shall be stored in approved containers, in accordance with National Fire Protection Association 30, Flammable and Combustible Liquids Code, 2003 edition.

(H) Radioactive materials, when employed, shall be stored in safe storage facilities.

(I) Each laboratory unit shall meet the requirements of Chapter 11 of NFPA 99 (relating to Laboratories), and Chapter 20 of NFPA 101 (relating to New Ambulatory Health Care Occupancies).

(8) Housekeeping room. A sufficient number of janitor's closets shall be provided throughout the facility to maintain a clean and sanitary environment. The closet shall contain a floor receptor or service sink and storage space for housekeeping supplies and equipment. When there is only one housekeeping room for the entire facility there shall be policies and procedures in place, as described in §131.55 of this title (relating to Sanitary Conditions and Hygienic Practices) for proper use of cleaning body fluids versus general cleaning, and the use of separate equipment and supplies.

(9) Medical waste. Space and facilities shall be provided for the safe storage and disposal of medical waste as appropriate for the material being handled and in compliance with all applicable federal, state, or local laws, codes, rules, regulations and ordinances.

(10) Supply rooms.

(A) A storage room/area for breakdown of supplies shall be provided. The storage room/area shall have adequate space for breakdown of prepackaged supplies to be loaded

on cart(s) to transport to the appropriate storage spaces. The breakdown area shall not reduce the clear unobstructive width in the egress corridor.

(B) Sterile/clean supply room. A sterile/clean supply room shall be provided. Storage of sterile/clean supplies shall not occur within the breakdown room.

(C) An equipment storage room shall be provided. The equipment room may be in the emergency suite.

(11) Employee facilities. A lounge, lockers and staff toilets shall be provided for employees and volunteers. The toilet room(s) may be unisex.

(12) Engineering suite and equipment areas shall be provided.

(A) Provisions shall be made for protected storage of facility drawings, records, manuals, etc.

(B) All mechanical and electrical equipment rooms shall provide sufficient space for proper maintenance of equipment. Provisions shall be made for removal and replacement of equipment.

(C) Additional areas or room(s) for mechanical and electrical equipment shall be provided within the physical plant or installed in separate buildings or weatherproof enclosures with the following exceptions.

(i) An area shall be provided for cooling towers and heat rejection equipment when such equipment is used.

(ii) Medical gas systems shall be housed in accordance with National Fire Protection Association 99, Standard for Health Care Facilities, 2002 edition (NFPA 99), Chapters 4 and 8.

(iii) When provided, compactors, dumpsters, and incinerators shall be located in an area remote from public entrances.

(e) General detail requirements. Details in pre-existing facilities shall comply with this subsection, local building codes, and local ordinances.

(1) Exits, corridors and doors.

(A) A facility shall provide two exits remote from each other. At least one exit door shall be accessible by an ambulance from the outside.

(B) Encroachment into the means of egress. Such items as drinking fountains, telephone booths or stations, and vending machines shall not project into or restrict exit corridor traffic or reduce the exit corridor width below the required minimum. Portable

equipment, when stored, shall not project into and restrict exit corridor traffic or reduce the exit corridor width below the required minimum.

(C) The unobstructed width of a corridor shall be at least four feet.

(D) Doors at all openings between corridors and rooms or spaces subject to occupancy shall be swing type. Elevator doors are excluded from this requirement.

(E) The minimum width of doors for patient access to treatment, examination, diagnostic, and imaging rooms requiring access for beds and gurneys shall be three feet.

(F) All fire doors shall be listed by an independent testing laboratory and shall meet the construction requirements for fire doors in National Fire Protection Association 80, Standard for Fire Doors and Fire Windows, 1999 Edition. Reference to a labeled door shall be construed to include labeled frame and hardware.

(2) Glazing for glass doors, lights, sidelights, borrowed lights, and windows located within 12 inches of a door jamb or with a bottom-frame height of less than 18 inches and a top-frame height of more than 36 inches above the finished floor which may be broken accidentally by pedestrian traffic shall be glazed with safety glass or plastic glazing material that will resist breaking and will not create dangerous cutting edges when broken. Similar materials shall be used for wall openings in activity areas such as recreation and exercise rooms, unless otherwise required for fire safety. Safety glass, tempered or plastic glazing materials shall be used for shower doors and bath enclosures, interior windows and doors. Plastic and similar materials used for glazing shall comply with the flame spread ratings of NFPA 101, §18.3.3.

(3) Grab bars shall be provided at patient toilets and showers. The bars shall be one and one-half inches in diameter, shall have either one and one-fourth or one and one-half inches clearance to walls, and shall have sufficient strength and anchorage to sustain a concentrated vertical or horizontal load of 250 pounds. Grab bars intended for use by the disabled shall also comply with ADA requirements.

(4) Location and arrangement of fittings for hand washing facilities shall permit their proper use and operation. Hand washing fixtures with hands-free controls shall be provided in each examination, treatment, trauma, diagnostic, imaging, holding/observation room/area, soiled utility room, clean work room, and toilet room. Particular care shall be given to the clearances required for blade-type operating handles. Lavatories and hand washing facilities shall be securely anchored to withstand an applied vertical load of not less than 250 pounds on the front of the fixture. In addition to the specific areas noted, hand washing facilities shall be conveniently located for staff use in rooms and areas noted under spatial requirements in subsection (c) of this section and throughout the center where patient care services are provided.

(5) A liquid or foam soap dispenser shall be located at each hand washing facility.

(6) Provisions for hand drying shall be included at all hand washing facilities. Hot air dryers or individual paper or cloth units shall be enclosed to provide protection against dust or soil and shall provide single-unit dispensing.

(7) A sign shall be posted at the entrance to each toilet/restroom to identify the facility for public, staff, or patient use.

(8) Emergency eyewash shall be provided conveniently located within the emergency suite for staff use and comply with ANSI Z358.1.

(9) The minimum ceiling height shall be eight feet six inches with the following exceptions.

(A) Ceilings in storage rooms, toilet rooms, and other minor rooms shall be not less than seven feet six inches.

(B) Boiler rooms shall have ceiling clearances not less than two feet six inches above the main boiler header and connecting piping.

(C) Overhead clearance for suspended tracks, rails, pipes, signs, lights, door closers, exit signs, and other fixtures that protrude into the path of normal traffic shall not be less than six feet eight inches above the finished floor.

(10) Radiation shielding shall be designed, tested, and approved by a medical physicist licensed under the Medical Physics Practice Act, Occupations Code, Chapter 602. The facility shall obtain a certificate of registration issued by the Radiation Safety Licensing Branch to use radiation machines.

(f) General finish requirements. Finishes in pre-existing facilities shall comply with this subsection, local building codes, and local ordinances.

(1) Privacy screens, cubicle curtains, and draperies.

(A) Cubicle curtains or privacy screens shall be provided to assure patient privacy when required or requested by a patient.

(B) Cubicle curtains, draperies and other hanging fabrics shall be noncombustible or flame retardant.

(2) Floor finishes.

(A) Flooring shall be easy to clean and have wear resistance appropriate for the location involved. In all areas frequently subjected to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions.

(B) Existing flooring in patient treatment/exam rooms in a pre-existing facility that has jointed or seamed flooring material may continue to be used provided there is assurance that no bodily fluids or moisture can harbor in the joints, seams or under the flooring material. If assurance of fluids harboring under the flooring material cannot be made, the flooring material must be sealed with a covering sealant material to prevent fluids from entering the seams and joints. When the existing flooring is replaced, the new flooring shall meet the requirements of §131.143(f)(3)(A)(iii) of this title (relating to Construction Requirements for a New Facility).

(C) Thresholds at doorways shall not exceed 3/4 inch in height for exterior sliding doors or 1/2 inch for other type doors. Raised thresholds and floor level changes at accessible doorways shall be beveled with a slope no greater than 1:2. Expansion joint covers shall not exceed 1/2 inch in height and shall have beveled edges with a slope no greater than 1:2.

(3) Wall finishes. Wall finishes shall be washable, moisture resistant, and cleanable by standard housekeeping practices.

(A) Wall finishes shall be water-resistant in the immediate area of plumbing fixtures.

(B) Wall finishes in areas subject to frequent, wet cleaning methods shall be impervious to water, tightly sealed, and without voids.

(4) Ceiling finishes. All occupied rooms and spaces shall be provided with finished ceilings, unless otherwise noted. Ceilings which are a part of a rated roof/ceiling assembly or a floor/ceiling assembly shall be constructed of listed components and installed in accordance with the listing.

(5) Floor, wall, and ceiling penetrations. Floor, wall, and ceiling penetrations by pipes, ducts, and conduits, or any direct openings shall be tightly sealed to minimize entry of dirt particles, rodents, and insects. Joints of structural elements shall be similarly sealed.

(6) Material finishes. Materials known to produce noxious gases when burned shall not be used for mattresses, upholstery, and wall finishes.

(g) General mechanical requirements. Mechanical systems, air conditioning, heating, and ventilating systems shall meet the requirements of the local building codes, ordinances and this section.

(1) Equipment location. Mechanical equipment may be located indoors, outdoors in a weatherproof enclosure, or in a separate building(s).

(2) Vibration isolation. Mechanical equipment shall be mounted on vibration isolators to prevent unacceptable structure-borne vibration. Ducts, pipes, etc. connected to mechanical equipment which is a source of vibration shall be isolated from the equipment with vibration isolators.

(3) Heating, ventilating, and air conditioning (HVAC) systems.

(A) All central HVAC systems shall comply with and shall be installed in accordance with required building codes, ordinances and NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems, 2002 Edition, or NFPA 90B, Standard for the Installation of Warm Air Heating and Air-Conditioning Systems, 2002 Edition, as applicable, and the requirements contained in this paragraph. Air handling units serving two or more rooms are considered to be central units.

(B) Noncentral air handling systems, i.e., individual room units that are used for heating and cooling purposes (e.g., fan-coil units, heat pump units, and packaged terminal air conditioning units) shall be equipped with permanent (cleanable) or replaceable filters. The filters shall have an average efficiency of 25 - 30% and an average arrestance of 85% based on American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), Inc., Standard 52.2, 1999 edition, Method of Testing General Ventilation Air Cleaning Devices for Removal Efficiency by Particle Size. These units shall be used as air recirculating units only.

(C) General ventilation requirements. All rooms and areas in the facility shall have provision for positive ventilation.

(i) All toilet exhaust ventilation shall be exhausted.

(ii) Air distribution devices. Design shall consider turbulence and other factors of air movement to minimize airborne particulate matter.

(I) All supply diffusers grilles shall be located on the ceiling or on a wall within four inches from the ceiling.

(II) Air supply for the treatment rooms/areas, exam rooms/areas, and trauma rooms/areas shall be from ceiling outlets.

(iii) Air handling units shall be equipped with filters having efficiencies of 25 - 30% and an average arrestance of 85% or greater based on American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), Inc., Standard 52.2, 1999 edition, Method of Testing General Ventilation Air Cleaning Devices for Removal Efficiency by Particle Size. All joints between filter segments, and between filter segments and the enclosing ductwork, shall have gaskets and seals to provide a positive seal against air leakage.

(iv) Existing return air plenums in pre-existing facility may continue to be used as long as the following conditions are provided.

(I) Final filters providing 90% efficiency shall be located downstream of the supply air blowers, cooling and heating coils.

(II) The facility shall at all times have constant air changes throughout the facility and meet the ventilation requirements of Table 2 of §131.148(b) of this title (relating to Tables) during operational hours.

(III) Provide Ultraviolet (UV) lighting apparatus in the central air handling unit.

(D) Ray protection. Ducts which penetrate construction intended for X-ray or other ray protection shall not impair the effectiveness of the protection.

(E) Fire damper requirements. Fire dampers shall be located and installed in all ducts at the point of penetration of a required two-hour or higher fire-rated wall or floor in accordance with the requirements of NFPA 101, §18.5.2.

(h) Piping systems and plumbing fixture requirements. All piping systems and plumbing fixtures shall meet the requirements of the local building codes, ordinances and this subchapter.

(1) Piping systems.

(A) Water supply piping systems. Piping systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand.

(i) Each water service main, branch main, riser, and branch to a group of fixtures shall be equipped with accessible and readily identifiable shutoff valves. Stop valves shall be provided at each fixture.

(ii) Backflow preventers (vacuum breakers) shall be installed on hose bibs, laboratory sinks, janitor sinks, bedpan flushing attachments, and all other fixtures to which hoses or tubing can be attached. Connections to high hazard sources, e.g., X-ray film processors, shall be from a cold water hose bib through a reduced pressure principle type backflow preventer (RPBFP).

(iii) Flush valves installed on plumbing fixtures shall be a quiet operating type, equipped with silencers.

(iv) Water heating equipment shall have sufficient capacity to supply water for all clinical needs based on accepted engineering practices using actual number and type of fixtures and for heating, when applicable.

(v) Water temperatures shall be measured at hot water point of use or at the inlet to processing equipment. Hot water temperature at point of use for patients, staff, and visitors shall be in the range of 105 to 120 degrees Fahrenheit.

(vi) Dead-end piping (risers with no flow, branches with no fixture) shall not be allowed.

(B) Fire sprinkler systems. When provided, fire sprinkler systems shall comply with the requirements of NFPA 101, §9.7, Automatic Sprinklers and Other Extinguishing Equipment, and the requirements of this subparagraph. All fire sprinkler systems shall be designed, installed, and maintained in accordance with the requirements of NFPA 13, Standard for the Installation of Sprinkler Systems, 2002 Edition, and shall be certified as required by §131.147(c)(1)(C) of this title (relating to Construction, Inspection, and Approval of Project).

(C) Piped nonflammable medical gas and clinical vacuum systems. Existing piped nonflammable medical gas and clinical vacuum systems shall be in accordance with NFPA 99, §5.1 for Level 1 Piped Systems.

(D) Main storage of medical gases may be outside or inside the facility in accordance with NFPA 99, §5.1. Provision shall be made for additional separate storage of reserve gas cylinders necessary to complete at least one day's procedures.

(2) Building sewers shall discharge into a community sewage system. Where such a system is not available, a facility providing sewage treatment shall conform to applicable local and state regulations.

(3) Plumbing fixtures. Plumbing fixtures shall be made of nonabsorptive, acid-resistant materials and shall comply with the requirements of the National Standard Plumbing Code, and this paragraph.

(A) Sink and lavatory controls. All lavatories used by medical and nursing staff and by patients shall be trimmed with valves or electronic controls which can be operated without the use of hands. Blade handles used for this purpose shall not be less than four inches in length. Single lever or wrist blade devices may also be used.

(B) Back-flow or siphoning. All plumbing fixtures and equipment shall be designed and installed to prevent the back-flow or back-siphonage of any material into the water supply. The over-the-rim type water inlet shall be used wherever possible. Vacuum-breaking devices shall be properly installed when an over-the-rim type water inlet cannot be utilized.

(C) Sterilizing equipment. All sterilizing equipment shall be designed and installed to prevent the contamination of the water supply, and the entrance of contaminating materials into the sterilizing units.

(D) Hose attachment. No hose shall be affixed to any faucet if the end of the hose may become submerged in contaminated liquid unless the faucet is equipped with an approved, properly installed vacuum breaker.

(E) Bedpan washers and sterilizers. When provided, bedpan washers and sterilizers shall be designed and installed so that both hot and cold water inlets shall be protected against back-siphonage at maximum water level.

(F) Flood level rim clearance. The water supply spouts for lavatories and sinks required in patient care areas shall be mounted so that their discharge points are a minimum of five inches above the rim of the fixture.

(G) Scrub sink controls. Freestanding scrub sinks and lavatories used for scrubbing in procedure rooms shall be trimmed with foot, knee, or electronic hands-free controls. Single lever wrist blades are not acceptable at scrub sinks.

(H) Floor drains or floor sinks. Where floor drains or floor sinks are installed, they shall be of a type that can be easily cleaned by removal of the cover. Removable stainless steel mesh shall be provided in addition to a grilled drain cover to prevent entry of large particles of waste which might cause stoppages.

(I) Under counter piping. Under counter piping and above floor drains shall be arranged (raised) so as not to interfere with cleaning of the floor below the equipment.

(J) Ice machines. All ice-making machines used for human consumption shall be of the self-dispensing type. Copper tubing shall be provided for supply connections to ice machines.

(i) General electrical requirements. This subsection contains common electrical and essential emergency system requirements. All electrical installation and equipment shall meet the requirements of the local building codes, ordinances and this subsection.

(1) Electrical requirements. All electrical material and equipment, including conductors, controls, and signaling devices, shall be installed in compliance with applicable sections of the NFPA 70, National Electrical Code, 2002 Edition, §517; NFPA 99, Chapter 14; the requirements of this subsection; and as necessary to provide a complete electrical system. Electrical systems and components shall be listed by nationally recognized listing agencies as complying with available standards and shall be installed in accordance with the listings and manufacturer's instructions.

(A) All fixtures, switches, sockets, and other pieces of apparatus shall be maintained in a safe and working condition.

(B) Extension cords and cables shall not be used for permanent wiring.

(C) All electrical heating devices shall be equipped with a pilot light to indicate when the device is in service, unless equipped with a temperature limiting device integral with the heater.

(D) All equipment, fixtures, and appliances shall be properly grounded in accordance with NFPA 70.

(E) Under counter electrical installations shall be arranged (raised) to not interfere with cleaning the floor below the equipment.

(2) Electrical safeguards. Shielded isolation transformers, voltage regulators, filters, surge suppressors, and other safeguards shall be provided as required where power line disturbances are likely to affect fire alarm components, data processing, equipment used for treatment, and automated laboratory diagnostic equipment.

(3) Services and switchboards. Main switchboards shall be located in separate rooms, separated from adjacent areas with one-hour fire-rated enclosures containing only electrical switchgear and distribution panels and shall be accessible to authorized persons only. These rooms shall be ventilated to provide an environment free of corrosive or explosive fumes and gases, or any flammable and combustible materials. Switchboards shall be located convenient for use and readily accessible for maintenance as required by NFPA 70, Article 384. Overload protective devices shall operate properly in ambient temperatures.

(4) Wiring. All conductors for controls, equipment, lighting and power operating at 100 volts or higher shall be installed in metal or metallic raceways in accordance with the requirements of NFPA 70, Article 517. All surface mounted wiring operating at less than 100 volts shall be protected from mechanical injury with metal raceways to a height of seven feet above the floor. Conduits and cables shall be supported in accordance with NFPA 70, Article 300.

(5) Lighting.

(A) Consideration shall be given to controlling light intensity and wavelength to prevent harm to the patient's eyes.

(B) Approaches to buildings and parking lots, and all spaces within buildings shall have fixtures that can be illuminated as necessary. All rooms including storerooms, electrical and mechanical equipment rooms, and all attics shall have sufficient artificial lighting so that all spaces are clearly visible.

(C) The special needs of the elderly shall be considered. The facility shall minimize excessive contrast in lighting levels that makes effective sight adaptation difficult.

(D) Electric lamps, which may be subject to breakage or which are installed in fixtures in confined locations when near woodwork, paper, clothing, or other combustible materials, shall be protected by wire guards, or plastic shields.

(E) Ceiling mounted surgical and examination light fixtures shall be suspended from rigid support structures mounted above the ceiling.

(6) Receptacles. Only listed hospital grade single-grounding or duplex-grounding receptacles shall be used in the trauma, treatment, exam, diagnostic, imaging rooms, and all patient care areas. This does not apply to special purpose receptacles.

(A) Electrical receptacles powered from the emergency generator shall be colored red.

(B) Replacement of malfunctioning receptacles and installation of new receptacles powered from the critical branch in existing facilities shall be installed or replaced with receptacles of the same distinct color as the existing receptacles.

(C) In locations where mobile X-ray or other equipment requiring special electrical configuration is used, the additional receptacles shall be distinctively marked for the special use.

(D) Each receptacle shall be grounded to the reference grounding point by means of a green insulated copper equipment grounding conductor in accordance with NFPA 70, §517-13.

(E) Ground fault circuit interrupters (GFCI) receptacles shall be provided for all general use receptacles located within three feet of a wash basin or sink. When GFCI receptacles are used, they shall be connected to not affect other devices connected to the circuit in the event of a trip.

(7) Nurse's calling systems.

(A) A nurse's emergency calling system shall be installed in all treatment room/area station(s), exam rooms/area station(s), isolation room(s), patient holding stations, imaging, diagnostic and patient toilet room(s) to summon nursing staff in an emergency. Activation of the system shall sound a distinct audible signal which repeats every five seconds or less at the nurse station, indicate the type and location of call on the system monitor, and activate a distinct visible signal in all areas. The activation of the system shall also activate distinct visible signals in the clean workroom, soiled workroom, and if provided, in the nourishment station. The visible and audible signals shall be cancelable only at the patient calling station. A nurse's emergency call system shall be accessible to a collapsed patient lying on the floor. Inclusion of a pull cord extending to within 6 inches of the floor will satisfy this requirement.

(B) A staff emergency assistance calling system station shall be located in each treatment room/area, examination room/area, trauma room/area, and holding room/area to be used by staff to summon additional help in an emergency. Activation of the system shall sound an audible signal at a staffed location, indicate type and location of call on the system monitor, and activate a distinct visible signal in the corridor at the door. Additional visible signals shall be installed at corridor intersections in multi-corridor facilities. Distinct visible and audible signals shall be activated in the clean workroom, in soiled workroom, equipment storage, and if provided, in the nourishment station.

(8) The pre-existing facility shall have an emergency contingency plan for the continuity of emergency essential building systems. The emergency contingency plan shall consist of one of the two options in this paragraph.

(A) An onsite emergency generator shall be provided with a Type II essential electrical distribution system in accordance with requirements of NFPA 99, §4.5 (2), and National Fire Protection Association 110, Standard for Emergency and Standby Power Systems, 2002 Edition.

(i) An emergency generator standby power system(s) shall require an onsite fuel source and enough fuel capacity in the tank for a period of 24 hours or more. The facility shall execute a contract with an outside supplier/vendor(s) that will provide fuel on demand. When a vapor liquefied petroleum gas (LPG) (natural gas) system is used, the twenty-four hour fuel capacity on site is not required. The vapor withdrawal LPG system shall require a dedicated fuel supply.

(ii) The emergency generator shall be installed, tested and maintained in accordance with the National Fire Protection Association 99, §4.5.4, and National Fire Protection Association 110, Standard for Emergency and Standby Power Systems, 2002 Edition.

(B) An executed contract with an outside supplier/vendor(s) to provide a portable emergency generator(s) and fuel on demand.

(i) An electrical transfer switch with plug-in device sized to provide emergency power for the patient care areas and the provisions in NFPA 99, §4.5.2.2.2.

(ii) An alternate source of power (battery power lighting) shall be provided separate and independent from the normal electrical power source that will be effective for a minimum of one and one-half hours after loss of electrical power. The emergency lighting system shall be capable of providing sufficient illumination to allow safe evacuation from the building. The battery pack systems shall be maintained and tested quarterly.

(iii) The facility shall implement the emergency contingency plan upon the loss of electrical power following a natural weather or man-made event when the electrical power may not be restored within 24 hours. The facility shall exercise the contract(s) with the supplier/vendor(s) in order to have portable emergency generator(s) available within 36 hours after the loss of electrical power.

(9) Fire alarm system. A fire alarm system which complies with NFPA 101, §20.3.4, and with NFPA 72, Chapter 6 requirements, shall be provided in pre-existing facilities. The required fire alarm system components are as follows.

(A) A fire alarm control panel (FACP) shall be installed at a visual location such as the main lobby. A remote fire alarm annunciator listed for fire alarm service and installed at a continuously attended location and capable of indicating both visual and audible alarm, trouble, and supervisory signals in accordance with the requirements of NFPA 72 may be substituted for the FACP.

(B) Manual fire alarm pull stations shall be installed in accordance with NFPA 101, §20.3.4.

(C) Smoke detectors shall be installed in supply and return air ducts in accordance with requirements of NFPA 72 §5.14.4.2.2 and §5.14.5 and NFPA 90A, §6.4.2.2.

(D) A fire alarm signal notification which complies with NFPA 101, §9.6.3, shall be provided to alert occupants of fire or other emergency.

(E) Audible alarm indicating devices shall be installed in accordance with the requirements of NFPA 101, §20.3.4, and NFPA 72, §7.4.

(F) Visual fire alarm indicating devices which comply with the requirements of NFPA 72, §7.5, shall be provided.

(G) Devices for transmitting an alarm shall be provided to alert the local fire brigade or municipal fire department of a fire or other emergency. The devices shall be listed for the fire alarm service by a nationally recognized laboratory, and be installed in accordance with such listing and the requirements of NFPA 72.

§131.142. Construction Requirements for an Existing Facility for Construction Completed after September 1, 2010.

(a) All buildings in which existing facilities licensed by the department are located shall comply with this subsection.

(1) A facility that is licensed before the effective date of these rules is considered to be a pre-existing or existing facility and shall continue, at a minimum, to meet the licensing requirements under which it was originally licensed.

(2) Existing licensed facilities shall meet the requirements for Existing Ambulatory Health Care Occupancies contained in Chapter 21 of the 2003 editions of the National Fire Protection Association 101, Life Safety Code, (NFPA 101). All documents published by NFPA as referenced in this section may be obtained by writing or calling the NFPA at the following address or telephone number: National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101 or (800) 344-3555. NFPA documents are also available for public inspection during regular working hours at the offices of Architectural Review Group, Texas Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3199.

(3) In lieu of meeting the requirements in paragraph (1) of this subsection, an existing licensed facility may, instead, comply with National Fire Protection Association (NFPA) 101, Life Safety Code, 2003 Edition (NFPA 101), Chapter 21, Existing Ambulatory Health Care Occupancies.

(b) All major remodeling, renovations, additions and alterations to an existing facility shall be completed in accordance with the requirements for new construction in §131.143 of this title (relating to Construction Requirements for a New Facility). All areas of an existing facility that is not part of the a major remodel, renovation, addition or alteration to the facility, are not required to meet these new construction requirements as long as the existing portion met the rules and codes that were in effect when it was originally constructed and licensed. When existing conditions make such changes impractical, the department may grant a conditional approval of minor deviations from the requirements of §131.143 of this title, if the intent of the requirements is met and if the care, safety and welfare of patients will not be jeopardized. The operation of the facility, accessibility of individuals with disabilities, and safety of the patients shall not be jeopardized by a condition(s), which is not in compliance with this chapter.

(1) Any alteration, modification, replacement, or installation of new building equipment (such as mechanical, electrical, emergency power equipment, energy/utility management, conveying systems, plumbing, fire protection, or other equipment) with a primary function of building service that affects life safety, infection control, changes the functional operation, or the health, safety, and welfare of patients and staff shall comply with the requirements for new construction and shall not be replaced, materially altered, or extended in an existing facility until complete plans and specifications have been submitted to the department, and the department has reviewed and approved the plans and specifications in accordance with §131.146 of this title (relating to Preparation, Submittal, Review and Approval of Plans, and Retention of Records).

(2) Minor remodeling or alterations within an existing facility which do not involve alterations to load bearing members and partitions, change functional operation, affect fire safety, or involve any of the major changes listed in paragraph (1) of this subsection are considered minor projects and require evaluation and approval by the department. A facility shall submit by mail or fax a written request and floor plan for evaluation, a brief description of the proposed changes, and sketches of the area being remodeled. Based on such submittal, the department shall evaluate and determine whether any additional submittals or inspections are required. The department shall notify the facility of its decision. Patching, restoration, or painting of materials, elements, equipment, or fixtures for the purpose of maintaining such materials, elements, equipment, or fixtures in good or sound condition would not require submission to the department for approval.

(3) All remodeling or alterations which involve alterations to load bearing members or partitions, change functional operation, or affect fire safety are considered major projects. A facility shall comply with this section before beginning construction of major projects.

(A) Plans shall be submitted in accordance with this section for all major remodeling or alterations.

(B) Phasing of construction in existing facilities.

(i) Projects involving alterations of or additions to existing buildings shall be programmed and phased so that on-site construction shall minimize disruptions of existing functions.

(ii) Access, exit access, and fire protection shall be maintained so that the safety of the occupants shall not be jeopardized during construction.

(iii) A noncombustible or limited combustible dust and vapor barrier shall be provided to separate areas undergoing demolition and construction from occupied areas. When a fire retardant plastic material is used for temporary daily usage, it shall be removed at the end of each day.

(iv) The air inside the construction area shall be protected by mechanical filtration that recirculates inside the space or is exhausted directly to the exterior.

(v) The area shall be properly ventilated and maintained. The area under construction shall have a negative air pressure differential to the adjoining areas which shall continue as long as construction dust and odors are present.

(vi) Temporary sound barriers shall be provided where intense prolonged construction noises will disturb patients or staff in the occupied portions of the building during patient treatment times.

(vii) When construction occurs after hours or on weekends, the facility shall thoroughly clean all areas of construction and provide a clean safe environment before treating patients. The facility shall ensure all fire safety protection and building systems are in place and working properly.

(c) A previously licensed facility which has been vacated or used for other purposes shall comply with all the requirements for new construction contained in §131.143 of this title in order to be licensed.

§131.143. Construction Requirements for a New Facility.

(a) Any proposed new facility shall be easily accessible to the community and to service vehicles such as delivery trucks, ambulances, and fire protection apparatus. No building may be converted for use as a facility which, because of its location, physical condition, state of repair, or arrangement of facilities, would be hazardous to the health and safety of the patients.

(1) A facility shall have at least two exits remotely located in accordance with National Fire Protection Association (NFPA) 101, Life Safety Code, 2003 Edition (NFPA 101), §20.2.4.1. When a required means of egress from the facility is through another portion of the building, that means of egress shall comply with the requirements of NFPA 101 which are applicable to the occupancy of that other building. Such means of egress shall be open, available, unlocked, unrestricted, and lighted at all times during the facility hours of operation. All documents published by National Fire Protection Association (NFPA) as referenced in this

section may be obtained by writing or calling the NFPA at the following address or telephone number: National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101 or (800) 344-3555. NFPA documents are also available for public inspection during regular working hours at the offices of Architectural Review Group, Texas Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3199.

(2) Hazardous locations.

(A) A new facility or an addition to an existing facility shall not be constructed within 150 feet of easement boundaries or setbacks of hazardous underground locations including but not limited to liquid butane or propane, liquid petroleum or natural gas transmission lines, high pressure lines, and not within the easement of high voltage electrical lines. Municipality's main natural gas lines in right-of ways serving dwellings and gas lines on property servicing gas meter(s) under this provision are not consider natural high pressure lines.

(B) A new facility and an addition to an existing facility shall not be built within 300 feet of above ground or underground storage tanks containing liquid petroleum or other flammable liquids used in connection with a bulk plant, marine terminal, aircraft refueling, bottling plant of a liquefied petroleum gas installation, or near other hazardous or hazard producing plants.

(3) Undesirable locations.

(A) In lieu of local codes, a new facility shall not be located closer than 1500 feet to nuisance producing industrial sites, feed lots, sanitary landfills, or manufacturing plants producing excessive noise or air pollution.

(B) Flood plains.

(i) When a new facility is constructed in a designated 100-year flood plain, the building finished floor elevation shall be one foot above the set base flood plain elevation. The building shall meet all local flood code ordinances and local flood control requirements.

(ii) To obtain a license as a facility, a previously licensed facility and an existing building or a portion of an existing building located in a designated 100-year flood plain shall meet the requirement of clause (i) of this subparagraph.

(iii) Facility required functional components shall be constructed above the designated flood plain in a new addition to an existing facility located in a designated 100-year flood plain. The new addition shall meet the requirement of clause(i) of this subparagraph.

(iv) Currently licensed facilities located within a designated 100-year flood plain are exempted from these requirements for renovations and repairs.

(b) The facility site shall include paved roads, walkways, and parking in accordance with the requirements set out in this subsection.

(1) Paved roads and walkways.

(A) Paved roads shall be provided within lot lines for access from public roads to the main entrance and to service entrances.

(B) Finished surface walkways shall be provided for pedestrians. When public transportation or walkways serve the site, finished surface walkways or paved roads shall extend from the public conveyance to the building entrance.

(2) Parking and disability requirements.

(A) Off-street parking shall be available for visitors, employees, and staff. Parking structures directly accessible from a facility shall be separated with two-hour fire rated noncombustible construction. When used as required means of egress for facility occupants, parking structures shall comply with National Fire Protection Association 88A, Standard for Parking Structures, 2002 edition. This requirement does not apply to freestanding parking structures.

(B) In the absence of local code, one parking space shall be provided for each staff member on duty, plus one space for each three treatment or examination stations, one space for each three diagnostic rooms and one visitor's space for every five treatment/exam/diagnostic stations/rooms. Parking facilities shall be increased accordingly when the size of existing facilities is increased.

(C) When on-street parking is available and acceptable to the local authorities having jurisdiction, the numbers of parking spaces may be reduced accordingly and shall meet the requirement of subparagraph (B) of this paragraph.

(D) Special considerations benefiting disabled staff, visitors, and patients shall be provided. Each facility shall comply with the Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, 42 United States Code, Chapter 126, and Title 36 Code of Federal Regulations, Part 1191, Appendix A, Accessibility Guidelines for Buildings and Facilities or 16 TAC, §68.20 (relating to Buildings and Facilities Subject to Compliance with the Texas Accessibility Standards), Texas Accessibility Standards (TAS), April 1, 1994 edition, issued by the Texas Department of Licensing and Regulation, under the Texas Architectural Barriers Act, Government Code, Chapter 469.

(c) Every building and every portion thereof shall be designed and constructed to sustain all dead and live loads in accordance with accepted engineering practices and standards and the local governing building codes. Where there is no local governing building code, the facility shall be constructed in accordance with the International Building Code, 2003 edition, published by the International Code Council, 500 New Jersey Avenue, Northwest, 6th Floor, Washington, District of Columbia 20001-2070, (888) 422-7233.

(1) All new construction, including conversion of an existing building to a facility or establishing a separately licensed facility within another existing building, shall comply with NFPA 101, Chapter 20, New Ambulatory Health Care Occupancies, of the National Fire Protection Association 101, Life Safety Code, 2003 edition (NFPA 101), and Subchapters F and G of this chapter (relating to Fire Prevention and Safety Requirements, and Physical Plant and Construction Requirements, respectively). Construction documents shall be submitted to the department in accordance with §131.146 of this title (relating to Preparation, Submittal, Review and Approval of Plans, and Retention of Records).

(A) Construction types for multiple building occupancy.

(i) When a facility is part of a larger building which complies with NFPA 101, §20.1.6, Minimum Construction Requirements for (fire resistance) construction type, the designated facility shall be separated from the remainder of the building with a minimum of one-hour fire rated construction.

(ii) When a facility is located in a multistory building of two or more stories, the entire building shall meet the construction requirements of NFPA 101, §20.1.6.3. A facility shall not be located in a multistory building which does not comply with the minimum construction requirements of NFPA 101, §20.1.6.3.

(iii) When a facility is part of a one-story building that does not comply with the construction requirements of NFPA 101, §20.1.6.2, the facility shall be separated from the remainder of the building with a 2-hour fire rated construction. The designated facility portion shall have the construction type upgraded to comply with NFPA 101, §20.1.6.2.

(B) Special provisions shall be made in the design of a facility if located in a region where local experience shows loss of life or extensive damage to buildings resulting from hurricanes, tornadoes, or floods.

(2) A facility shall provide a physical environment that protects the health, safety, and welfare of patients, personnel, and the public.

(3) The more stringent standard, code or requirement shall apply when a difference in requirements for construction exists.

(4) Nothing in this subchapter shall be construed to prohibit a better type of building construction, more exits, or otherwise safer conditions than the minimum requirements specified in this subchapter.

(5) Nothing in this subchapter is intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability, safety to health and welfare of individuals, and safety to those prescribed by this subchapter,

provided technical documentation which demonstrates equivalency is submitted to the department for approval.

(6) Separate freestanding buildings for non-patient use such as the heating plant, boiler plant, laundry, repair workshops, or general storage may be of unprotected noncombustible construction, protected noncombustible construction, or fire-resistive construction and be designed and constructed in accordance with other occupancy classifications requirements listed in NFPA 101.

(d) Spatial requirements.

(1) Administration and public areas.

(A) A primary entrance shall be located at grade level and be accessible to individuals with disabilities, and protected against inclement weather with a canopy from the point of passenger loading and unloading to the building entrance. The canopy shall at least extend over the passenger side of the vehicle to minimally protect the patient from inclement weather.

(B) A main lobby shall be located at the primary entrance and shall include a reception and information counter or desk, waiting space(s), private interview space/alcove, public toilet facilities located convenient to the lobby/waiting area, public telephones, drinking fountain(s), bottled water or water cooler, and storage room or alcove for wheelchairs. Private interview space/alcove may be omitted if all interviews are conducted in treatment or exam rooms.

(C) General office(s) space shall be provided for business transactions, medical and financial records, and administrative and professional staff on site or off site.

(D) Storage. Storage room or closet for office equipment and supplies shall be provided and located outside of the patient treatment areas.

(E) When a facility is fully digitalized, an IT closet shall be provided for computer servers. When the facility is not fully digitalized, the facility shall provide an area for storage of clinical records which is separate from patient treatment and diagnostic areas, and shall be secured from unauthorized access.

(2) Emergency entrance and signage.

(A) A separate ambulance entrance at grade level shall be well-illuminated, identified by sign(s), and protected from inclement weather. The ambulance entry shall have a drive under canopy for protection from inclement weather. The primary and ambulance entry to permit discharge of patients from automobiles and ambulances shall be paved. Parking shall be provided near and convenient to the pedestrian primary entrance.

(B) Emergency entry signage. An emergency sign shall be provided at the entry from the public road(s) or street(s) serving the site. The emergency sign at the entry to the site shall be illuminated and connected to the emergency essential electrical system. Additional sign(s) on-site may be required to direct patients to the emergency treatment area entrance when the emergency treatment area is not visible from the site entry. The letters on the entry sign shall be red or white with a contrasting background, all capitalized, at least eight inches in height, and include an arrow indicating direction.

(C) A facility that is not in continuous operation 24 hours per day and 7 days per week shall display clearly visible signage at the main entry and ambulance entry points of the facility. The signage letter size shall be readable and not smaller than half an inch in height. The signage shall provide the information required under §131.22(c) of this title (relating to Classifications of Facilities).

(D) A facility that is not in continuous operation shall comply with the requirements under §133.22(d) of this title.

(3) Emergency suite.

(A) Control station/nurse station shall be located to permit staff observation and control of access to treatment room(s), exam rooms, pedestrian and ambulance entrances, and public waiting area(s). Video cameras may be substituted for direct visual observation for pedestrian and ambulance entrances, and public waiting area(s). The nurse station shall contain cabinets, work counter, and a hand washing fixture with hands-free operable controls. The counter height shall not exceed 42 inches. The nurse station may be combined with or include centers for reception and communication.

(B) When a dedicated triage space/room is provided, it shall include a counter with a hand washing fixture with hands-free operable controls.

(C) Charting and dictation space for physician's space may be in a separate room or alcove or control station/nurse station. Suitable space shall be provided when computers are used for the clinical records.

(D) As a minimum requirement, all facilities shall provide at least one emergency treatment room to handle emergencies. The room(s) and facilities shall meet the following requirements.

(i) The emergency treatment room for a single patient shall have a minimum clear area of 120 square feet clear floor area exclusive of fixed and movable cabinets and shelves. The minimum clear room dimension exclusive of fixed cabinets and built-in shelves shall be 10 feet. The emergency treatment room shall contain cabinets, work counter, examination light, and a hand washing fixture with hands-free operable controls.

(ii) When a multiple-bed emergency treatment room is provided, the clearance between the side of a bed/gurney and a wall/partition shall be a minimum of four

feet. The clearance between the sides of beds/gurneys shall be a minimum of six feet. The minimum distance at the foot of the bed/gurney shall not be less than seven feet for single load area/room or ten feet for double load area/room. Four feet of the passage space at the foot of the bed may be shared between two beds/gurneys. The multiple-bed emergency treatment room shall contain cabinets, medication storage, work counter, examination light, and a hand washing fixture with hands-free operable controls. The fixed and movable cabinets and shelves shall not encroach upon the bed/gurney clear floor space/area. The requirements of this clause are illustrated in Table (5), Diagram (A) of §131.148(e) of this title (relating to Tables).

(iii) One hand washing fixture with hands-free operable controls shall be provided for each bed/gurney location. One hand washing fixture may serve two beds/gurneys if distributed appropriately between the two.

(iv) Storage space shall be provided within the room or suite and be under staff control for general medical-surgical emergency supplies and medications. Adequate space shall be provided for emergency equipment such as emergency treatment trays, ventilator, defibrillator, splints, cardiac monitor, etc.

(E) As a minimum requirement, all facilities shall provide at least one exam room. The room(s) and facilities shall meet the following requirements.

(i) The exam room for a single patient shall have a minimum clear area of 100 square feet clear floor area exclusive of fixed and movable cabinets and shelves. The minimum clear room dimension exclusive of fixed cabinets and built-in shelves shall be 9 feet. The examination room shall contain cabinets, work counter, examination light, and a hand washing fixture with hands-free operable controls.

(ii) When a multiple-bed exam room is provided, the clearance between the side of the bed/gurney and a wall/partition shall be a minimum of three feet. The clearance between sides of the beds/gurneys shall be a minimum of six feet. The minimum distance at the foot of the bed/gurney shall not be less than seven feet for single load area/room or ten feet for double load area/room. Four feet of the passage space at the foot of the bed may be shared between two beds/gurneys. The multiple-bed examination room shall contain cabinets, work counters, and a hand washing fixture with hands-free operable controls. The fixed and moveable cabinets and shelves shall not encroach upon the bed/gurney clear floor space/area. The requirements of this clause are illustrated in Table 5, Diagram (B) of §131.148(e) of this title. Provisions shall be made for visual privacy between multiple stations.

(iii) One hand washing fixture shall be provided for every four beds/gurneys or fraction thereof. Fixtures shall be uniformly distributed and not located within the exam area behind the curtains.

(F) Storage space shall be provided within the emergency suite and be under staff control for general medical emergency supplies and medications. Adequate space shall be provided for emergency equipment such as emergency treatment trays, ventilator, defibrillator, splints, cardiac monitor, etc.

(G) A medical staff work area and charting area(s) shall be provided. The area may be combined with the control station/nurse station.

(H) An area or alcove located out of traffic and convenient to the treatment and exam room(s) shall be provided for an emergency crash cart.

(I) An alcove shall be provided for stretcher and wheelchair storage. The storage shall be located out of the line of traffic.

(J) A nourishment station shall be provided containing a work counter with sink, microwave, refrigerator and storage cabinets and not located in the clean workroom.

(K) When provided, an ice machine supplying ice for therapeutic purposes shall be located in the clean utility room. A self-dispensing ice machine shall be provided for ice for human consumption and located in a clean utility room or the nurse station.

(L) Patient toilet room(s) shall be provided and shall be convenient to treatment rooms, examination rooms, and trauma rooms a hand washing fixture with hands-free operable controls. Patient toilet room shall be at a ratio of 1 toilet room for every 5 treatment, exam, trauma stations or fraction thereof.

(M) A clean storage room shall be provided for clean supplies and linens as needed. A hand washing fixture shall be provided within the room with hands-free operable controls.

(N) Soiled workroom shall be provided and contain a work counter, a clinical sink or equivalent flushing type fixture, hand washing fixture with hands-free operable controls, waste receptacles, and soiled linen receptacles.

(O) A housekeeping room containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided for the exclusive use of the emergency suite and shall be directly accessible from the emergency suite. When automatic film processors are used, a receptacle of adequate size with hot and cold water for cleaning the processor racks shall be provided. When there is only one housekeeping room for the entire facility there shall be policies and procedures in place, as describe in §131.55 of this title (relating to Sanitary Conditions and Hygienic Practices) for proper use of cleaning up body fluids versus general cleaning, and the use of separate equipment and supplies.

(P) Staff toilets may be outside the suite but shall be convenient for staff use and include hand washing fixtures with hands-free operable controls. When a department has four or more treatment or examination rooms, toilet facilities shall be in the suite.

(4) Trauma Treatment rooms. When provided, a trauma room it shall comply with the following.

(A) A trauma room shall be 250 square feet of clear floor area exclusive of aisles and fixed and moveable cabinets and shelves. The minimum clear dimension between fixed cabinets and built-in shelves shall be 12 feet. The trauma room shall contain a work counter, cabinets, and examination light.

(B) When multiple-patient trauma stations are provided, the clearance between the head of the bed/gurney to the wall/partition shall be a minimum of three feet. The clearance between the side of a bed/gurney and a wall/partition shall be a minimum of six feet. The clearance between the sides of beds/gurneys shall be a minimum of twelve feet. The minimum distance at the foot of the bed/gurney shall not be less than seven feet for single load area/room or ten feet for double load area/room. Four feet of the passage space at the foot of the bed may be shared between two beds/gurneys. The multiple-bed trauma room shall contain cabinets, medication storage, work counter, examination light, and scrub sink with hands-free operable controls. The fixed and moveable cabinets and shelves shall not encroach upon the bed/gurney clear floor space/area. The requirements of this subparagraph are illustrated in Table 5, Diagram (C) of §131.148(e) of this title. Provisions shall be made for visual privacy between multiple stations.

(C) A scrub station shall be located within five feet of the either inside or outside entrance to each trauma room. One scrub station may serve two trauma beds/gurneys. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts. The scrub sinks shall be recessed out of the main line of traffic.

(D) All doorway openings from the ambulance entrance to the trauma room shall be a minimum of five feet wide.

(5) Holding or observation room/area.

(A) When a holding or observation room/area is provided within or adjacent to the emergency suite, it shall comply with the following.

(B) A single holding/observation room shall have a minimum clear area of 100 square feet exclusive of fixed and movable cabinets and shelves. The holding/observation room shall contain a work counter and hand washing fixture with hands-free operable controls.

(i) The single holding/observation room shall be near the nurse station and near a patient toilet room which contains a hand washing fixture with hands-free operable controls.

(ii) In a multiple-bed holding/observation room/area, the clearance between the side of the bed/gurney and a wall/partition shall be a minimum of three feet. The clearance between sides of the beds/gurneys shall be a minimum of six feet. The minimum distance at the foot of the bed/gurney shall not be less than seven feet for single load area/room or ten feet for double load area/room. Four feet of the passage space at the foot of the bed may be shared between two beds/gurneys. The multiple-bed holding/observation room/area shall contain cabinets, work counters, and a hand washing fixture with hands-free operable controls.

One hand washing fixture shall be provided for every four holding/observation beds or fraction thereof. Fixtures shall be uniformly distributed. The fixed and moveable cabinets and shelves shall not encroach upon the bed/gurney clear floor space/area. The requirements of this clause are illustrated in Table 5, Diagram (B) of §131.148(e) of this title.

(iii) In a multiple-bed holding/observation room/area, a patient toilet room with a hand washing fixture with hands-free operable controls shall be provided within the room or area.

(C) When a multiple-bed gurney holding or observation room is not within or adjacent to the emergency suite, the following additional spaces shall be provided:

(i) A stretcher and wheelchair storage alcove/room shall be provided. The alcove/room for stretcher and wheelchair storage shall be located out of the line of traffic.

(ii) A clean storage room shall be provided within or adjacent to the holding or observation room. The clean storage room shall be provided for clean supplies and linen as needed. A hand washing fixture shall be provided with hands-free operable controls.

(iii) Soiled workroom. A soiled workroom shall be provided within or adjacent to the holding or observation room. The workroom shall contain a work counter, a clinical sink or equivalent flushing type fixture, hand washing fixture with hands-free operable controls, waste receptacles, and soiled linen receptacles. The soiled workroom required in support of a treatment/exam room may be combined with the holding or observation room/area if confidently located between the two areas.

(6) Medication work room or alcove. A medication work room or alcove shall be provided and located separate from patient and public areas and under the direct supervision of staff. A work counter, refrigerator, medication storage, and locked storage for biologicals and drugs shall be provided. A hand washing fixture with hands-free operable controls shall be located in the medication work room or alcove. Water spouts used at lavatories and sinks shall have clearances adequate to avoid contaminating utensils and the contents of carafes, etc.

(A) Functional space shall be provided and areas required for records, reports, and accounting activities.

(B) Space for the poison control center shall be provided with storage facilities for reaction data and drug information centers.

(7) Diagnostic radiographic (X-ray). A diagnostic radiographic (X-ray) room shall be provided and be readily available to the emergency suite. The diagnostic radiographic (X-ray) room size shall be in compliance with the manufacturer's recommendations. Clearance and unobstructed space shall not be less than three feet around the diagnostic equipment. Dressing room(s) shall be provided and located near the X-ray room.

(8) Computed tomography (CT) scanning. A CT room shall be provided and be readily available to the emergency suite. Clearance and unobstructed space shall not be less than three feet on each side of the diagnostic equipment. The CT room(s) size shall be in compliance with the manufacturer's recommendations and shall contain the following.

(A) A control room shall be provided with a view window permitting view of the patient. The control room shall be located to allow convenient film processing.

(B) A patient toilet room shall be provided conveniently to the procedure room. When directly accessible to the scan room, the toilet room shall be arranged so that a patient may leave the toilet room without having to reenter the scan room. The toilet room shall have a hand washing fixture with hands-free operable controls.

(9) Laboratory services. Laboratory suite shall be provided with the following minimum facilities.

(A) The laboratory work room(s) shall include counter(s), space appropriately designed for laboratory equipment, and sink(s) with hands-free operable controls.

(B) Each laboratory room or work area shall be provided with a hand washing fixture(s) with hands-free operable controls.

(C) General storage, including refrigeration for reagents, standards, supplies, and stained specimen microscope slides, etc. shall be provided. Separate facilities shall be provided for such incompatible materials as acids and bases, and vented storage shall be provided for volatile solvents.

(D) A refrigerator or other similar equipment shall be provided for specimen storage waiting for transfer to off-site testing.

(E) Specimen room/area for blood collection shall be provided with a counter, space for seating, and hand washing fixture with hands-free operable controls. A toilet and lavatory with hands-free operable controls shall be provided for specimen collection. This facility may be outside the laboratory suite if conveniently located.

(F) When chemical safety is a requirement, an emergency shower and eye flushing devices shall be provided.

(G) Flammable or combustible liquids, when used, shall be stored in approved containers, in accordance with National Fire Protection Association 30, Flammable and Combustible Liquids Code, 2003 edition.

(H) When radioactive materials are employed, safe storage facilities shall be provided.

(I) Each laboratory unit shall meet the requirements of Chapter 11 of NFPA 99 (relating to Laboratories), and Chapter 20 of NFPA 101 (relating to New Ambulatory Health Care Occupancies).

(10) Isolation room. The need for an airborne infection isolation room in the emergency suite shall be determined by the governing body and the infection risk assessment.

(A) When the facility provides treatment rooms to perform procedures on persons who are known or suspected of having an airborne infectious disease, these procedures shall be performed in a designated emergency airborne infection isolation treatment rooms and meeting airborne infection isolation ventilation requirements. The isolation room shall meet the ventilation requirements contained in Table 1 of §131.148(a) of this title.

(B) The emergency airborne infection isolation treatment room for a single patient shall have a minimum clear area of 120 square feet clear floor area exclusive of fixed and movable cabinets and shelves. The minimum clear room dimension exclusive of fixed cabinets and built-in shelves shall be 10 feet. The emergency treatment room shall contain cabinets, medication storage, work counter, examination light, and a hand washing fixture with hands-free operable controls.

(C) The emergency airborne infection isolation room shall be provided with an enclosed anteroom. The enclosed anteroom shall open to directly into the emergency airborne infection isolation treatment room. The enclosed anteroom shall have facilities for hand washing, gowning, and storage of clean and soiled materials. One enclosed anteroom may serve multiple isolation rooms.

(D) The door from the enclosed anteroom to the emergency airborne infection isolation room shall be provided with a self-closing device.

(E) Pressure differential monitors or air flow devices shall be installed outside the isolation room and anteroom. Devices shall be installed in corridors, passageways, etc.

(11) Secured holding room. When provided, this room shall be constructed to allow for security, patient and staff safety, patient observation, and sound mitigation. The secure holding room shall have a minimum clear area of 100 square feet clear floor area exclusive of fixed cabinets. The minimum clear room dimension exclusive of fixed cabinets shall be 10 feet.

(12) Orthopedic and cast room. When provided, the room(s) may be in separate room(s) or in the trauma room. The room(s) shall contain a work counter, storage for splints and orthopedic supplies, traction hooks, medication storage, examination light, and a hand washing fixture with hands-free operable controls. When a cast room is provided it shall be equipped with hand washing facilities, storage, and other provisions required for cast procedures.

(13) Film processing room. When a radiographic (X-ray) room is provided, a darkroom for processing film shall be provided unless the processing equipment does not require

a darkroom for loading and transfer. When daylight processing is used, the darkroom may be minimal for emergency and special uses. Film processing shall be located convenient to the darkroom.

(14) Housekeeping room. Sufficient number of janitor's closets shall be provided throughout the facility to maintain a clean and sanitary environment. The closet shall contain a floor receptor or service sink and storage space for housekeeping supplies and equipment. When there is only one housekeeping room for the entire facility there shall be policies and procedures in place, as describe in §131.55 of this title for proper use of cleaning up body fluids versus general cleaning, and the use of separate equipment and supplies.

(15) Medical waste. Space and facilities shall be provided for the safe storage and disposal of medical waste as appropriate for the material being handled and in compliance with all applicable federal, state, or local laws, codes, rules, regulations and ordinances.

(16) Decontamination room.

(A) When a decontamination room is provided, the exterior entry point shall be far as practical from any other entry point to the emergency treatment area.

(B) The internal door from the decontamination room shall open directly to the corridor into the emergency treatment area.

(C) The door shall swing into the room and be lockable against ingress from the corridor.

(D) The room shall be a minimum of 80 square feet of clear floor area with a hand washing fixture with hands-free operable controls.

(E) The decontamination room shall be equipped with two hand-held showerheads with temperature controls and a dedicated holding tank with a floor drain.

(F) The decontamination room floor shall be self-coved to a height of six inches. The room shall have all smooth, nonporous, scrubable, nonabsorbent and nonperforated surfaces.

(17) Supply rooms.

(A) A storage room/area for breakdown of supplies shall be provided. The storage room/area shall have adequate space for breakdown of prepackaged supplies to be loaded on cart(s) to transport to the appropriate storage spaces. The breakdown area shall not reduce the clear unobstructive width in the egress corridor.

(B) Sterile/clean supply room. A sterile/clean supply room shall be provided. Storage of sterile/clean supplies shall not occur within the breakdown room.

(C) An equipment storage room shall be provided. The equipment room may be in the emergency suite.

(18) Laundry and linen may be processed within the facility or off site at a commercial laundry.

(A) When on-site linen processing is provided, soiled and clean processing operations shall be separated and arranged to provide a one-way traffic pattern from soiled to clean areas. The following rooms and items shall be provided:

(i) a soiled linen processing room that includes areas for receiving, holding, sorting, and washing;

(ii) a clean linen processing room that includes areas for drying, sorting, folding, and holding before distribution;

(iii) supply storage cabinets in the soiled and clean linen processing rooms;

(iv) hand washing sink within the soiled linen processing room;
and

(v) a storage room for clean linen. Clean linen storage may be combined with the clean work room.

(B) When linen is processed off site, the following areas shall be provided:

(i) clean linen shall be stored within the clean supply area; and

(ii) soiled linen shall be stored in a designated space in the facility.

(19) Employee facilities. An employee suite shall be provided containing lockers, a lounge, and staff toilets for employees and volunteers. The toilet room(s) may be unisex.

(20) Engineering suite and equipment areas shall be provided.

(A) An engineer's office/area with file space and provisions for protected storage of facility drawings, records, manuals, etc.

(B) A general maintenance shop(s) for repair, maintenance, supplies and equipment. An area for medical equipment which includes provisions for the storage, repair, and testing of electronic and other medical equipment.

(C) When necessary, a separate room or building for yard maintenance equipment and supplies. When a separate room is within the physical plant, the room shall be

located so that equipment may be moved directly to the exterior. Yard equipment or vehicles using flammable liquid fuels shall not be stored or housed within the facility.

(D) Sufficient space shall be provided in all mechanical and electrical equipment rooms for proper maintenance of equipment. Provisions shall also be made for removal and replacement of equipment.

(E) Additional areas or room(s) for mechanical and electrical equipment shall be provided within the physical plant or installed in separate buildings or weatherproof enclosures with the following exceptions.

(i) An area shall be provided for cooling towers and heat rejection equipment when such equipment is used.

(ii) An area for the medical gas park and equipment shall be provided. For smaller medical gas systems, the equipment may be housed in a room within the physical plant in accordance with National Fire Protection Association 99, Standard for Health Care Facilities, 2002 edition (NFPA 99), Chapters 4 and 8.

(iii) When provided, compactors, dumpsters, and incinerators shall be located in an area remote from public entrances.

(e) General detail requirements. Details in new construction projects, including additions and alterations, shall comply with this subsection, with NFPA 101, Chapter 20, and with local building codes.

(1) Fire safety features, including smoke compartmentation, means of egress, automatic extinguishing systems, inspections, smoking regulations, and other details relating to fire prevention and fire protection shall comply with NFPA 101, Chapter 20. The Fire Safety Evaluation System for Health Care Occupancies contained in the National Fire Protection Association 101A, Alternative Approaches to Life Safety, 2001 Edition, Chapter 3, shall not be used in new building construction, renovations, or additions to existing facilities.

(2) Exits, corridors and doors.

(A) A facility shall provide two exits remote from each other in accordance with NFPA 101, §20.2.4.1. At least one exit door shall be accessible by an ambulance from the outside. This door may also serve as an entry for loading or receiving goods.

(B) Encroachment into the means of egress. Such items as drinking fountains, telephone booths or stations, and vending machines shall not project into and restrict exit corridor traffic or reduce the exit corridor width below the required minimum. Portable equipment, when stored, shall not project into and restrict exit corridor traffic or reduce the exit corridor width below the required minimum.

(C) Corridors.

(i) The minimum clear and unobstructed width of a public corridor shall be at least four feet.

(ii) The communicating corridor shall be used to convey patients by stretcher, gurney, or bed.

(iii) The communicating corridor shall link the treatment room/area, exam room/area, and holding room/area and shall be continuous to at least one exit.

(iv) The minimum clear and unobstructed width of the communicating corridor shall be six feet.

(D) Doors at all openings between corridors and rooms or spaces subject to occupancy shall be swing type. Elevator doors are excluded from this requirement.

(E) Doors, except doors to spaces such as small closets which are not subject to occupancy, shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width. Large walk-in type closets are considered as occupiable spaces.

(F) The minimum width of doors for patient access to treatment, examination, diagnostic, and imaging rooms requiring access for beds and gurneys shall be three feet eight inches.

(G) Emergency access rooms containing a restroom, intended for patient use, shall be provided with at least one door having hardware which will permit access from the outside in any emergency. Door leaf width of such doors shall not be less than 36 inches.

(H) Horizontal sliding doors serving an occupant load of fewer than 10 shall be permitted. The area served by the door shall have no high hazard contents. The door shall be readily operable from either side without special knowledge or effort. The force required to operate the door in the direction of door travel shall be not more than 30 pounds per foot to set the door in motion, and shall be not more than 15 pounds per foot to close the door or open in the minimum required width. The door assembly shall comply with any required fire protection rating, and, where rated, shall be self-closing or automatic closing. The sliding doors opening to the egress corridor doors shall have a latch or other mechanism that ensures that the doors will not rebound into a partially open position if forcefully closed. The sliding doors shall be installed to resist passage of smoke and may have breakaway provisions. The latching sliding panel shall have a minimum clear opening of 36 inches in the fully open position. The fixed panels may have recessed tracks.

(I) All fire doors shall be listed by an independent testing laboratory and shall meet the construction requirements for fire doors in National Fire Protection Association 80, Standard for Fire Doors and Fire Windows, 1999 Edition. Reference to a labeled door shall be construed to include labeled frame and hardware.

(3) Glazing for glass doors, lights, sidelights, borrowed lights, and windows located within 12 inches of a door jamb or with a bottom-frame height of less than 18 inches and a top-frame height of more than 36 inches above the finished floor which may be broken accidentally by pedestrian traffic shall be glazed with safety glass or plastic glazing material that will resist breaking and will not create dangerous cutting edges when broken. Similar materials shall be used for wall openings in activity areas such as recreation and exercise rooms, unless otherwise required for fire safety. Safety glass, tempered or plastic glazing materials shall be used for shower doors and bath enclosures, interior windows and doors. Plastic and similar materials used for glazing shall comply with the flame spread ratings of NFPA 101, §18.3.3.

(4) Grab bars shall be provided at patient toilets and showers. The bars shall be one and one-half inches in diameter, shall have either one and one-fourth or one and one-half inches clearance to walls, and shall have sufficient strength and anchorage to sustain a concentrated vertical or horizontal load of 250 pounds. Grab bars intended for use by the disabled shall also comply with ADA requirements.

(5) Location and arrangement of fittings for hand washing facilities shall permit their proper use and operation. Hand washing fixtures with hands-free controls shall be provided in each examination, treatment, trauma, diagnostic, imaging, holding/observation room/area, soiled utility room, clean work room, and toilet room. Particular care shall be given to the clearances required for blade-type operating handles. Lavatories and hand washing facilities shall be securely anchored to withstand an applied vertical load of not less than 250 pounds on the front of the fixture. In addition to the specific areas noted, hand washing facilities shall be conveniently located for staff use in rooms and areas noted under spatial requirements in subsection (d) of this section and throughout the center where patient care services are provided.

(6) A liquid or foam soap dispenser shall be located at each hand washing facility.

(7) Provisions for hand drying shall be included at all hand washing facilities. Hot air dryers or individual paper or cloth units shall be enclosed to provide protection against dust or soil and shall provide single-unit dispensing.

(8) A sign shall be posted at the entrance to each toilet/restroom to identify the facility for public, staff, or patient use.

(9) Emergency eyewash shall be provided conveniently located within the emergency suite for staff use and comply with ANSI Z358.1.

(10) The minimum ceiling height shall be eight feet six inches with the following exceptions.

(A) Rooms containing ceiling-mounted light fixtures or equipment. Trauma rooms or other rooms containing ceiling-mounted light fixtures or equipment shall have a ceiling height of not less than nine feet. Additional ceiling height may be required to accommodate special fixtures or equipment.

(B) Ceilings in storage rooms, toilet rooms, and other minor rooms shall be not less than seven feet six inches.

(C) Boiler rooms shall have ceiling clearances not less than two feet six inches above the main boiler header and connecting piping.

(D) Overhead clearance for suspended tracks, rails, pipes, signs, lights, door closers, exit signs, and other fixtures that protrude into the path of normal traffic shall not be less than six feet eight inches above the finished floor.

(11) Areas producing impact noises like recreation rooms, exercise rooms, and similar spaces shall not be located directly over trauma or treatment rooms/area unless special provisions are made to minimize noise.

(12) Rooms containing heat-producing equipment, such as mechanical and electrical equipment and laundry rooms, shall be insulated and ventilated to prevent floors of any occupied room located above it from exceeding a temperature differential of 10 degrees Fahrenheit above the ambient room temperature.

(13) When the entire facility is provided with digital imaging system capabilities, a minimum of two X-ray film illuminators viewers shall be provided in a central location.

(14) Radiation shielding shall be designed, tested, and approved by a medical physicist licensed under the Medical Physics Practice Act, Occupations Code, Chapter 602. The facility shall obtain a certificate of registration issued by the Radiation Safety Licensing Branch to use radiation machines.

(f) General finish requirements. Finishes in new construction projects, including additions and alterations, shall comply with this subsection, with NFPA 101, Chapter 20, and with local building codes.

(1) Privacy screens, cubicle curtains, and draperies.

(A) Cubicle curtains or privacy screens shall be provided to assure patient privacy when required or requested by a patient.

(B) Cubicle curtains, draperies and other hanging fabrics shall be noncombustible or flame retardant and shall pass both the small-scale and the large-scale tests of National Fire Protection Association 701, Standard Methods of Fire Tests for Flame-Resistant Textiles and Films, 1999 Edition. Copies of laboratory test reports for installed materials shall be submitted to the department at the time of the final construction inspection.

(2) Flame spread, smoke development and noxious gases. Flame spread and smoke developed limitations of interior finishes shall comply with Table 4 of §131.148(d) of this title and NFPA 101, §10.2. The use of materials known to produce large or concentrated amounts

of noxious or toxic gases shall not be used in exit accesses or in patient areas. Copies of laboratory test reports for installed materials tested in accordance with National Fire Protection Association 255, Standard Method of Test of Surface Burning Characteristics of Building Materials, 2000 Edition, and National Fire Protection Association 258, Standard Research Test Method for Determining Smoke Generation of Solid Materials, 2001 Edition, shall be provided.

(3) Floor finishes.

(A) Flooring shall be easy to clean and have wear resistance appropriate for the location involved. Floors that are subject to traffic while wet (such as shower and bath areas and similar work areas) shall have a nonslip surface. In all areas frequently subject to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions. The following are acceptable floor finishes:

(i) painted concrete for mechanical, electrical, communication rooms, and janitor's closets;

(ii) vinyl and vinyl composition tiles and sheets tiles for offices, lobbies, administrative areas, storage, staff and public toilet rooms, support spaces, and non-treatment areas. The joints shall be sealed to prevent moisture penetration between the joints and under the tile;

(iii) monolithic or seamless flooring shall be provided for all treatment rooms/areas, exam rooms/areas, patient toilet rooms, and soiled workrooms. Seamless flooring shall be impervious to water, coved and installed integral with the base, tightly sealed to the wall, and without voids that can harbor insects or retain dirt particles. The base shall not be less than six inches in height. Welded joint flooring is acceptable;

(iv) marble, ceramic and quarry tile for offices, lobbies, staff and public toilet rooms, administrative areas, wet areas, and similar spaces;

(v) carpet flooring for offices, lobbies, and administrative areas. Carpeting shall not be installed in any holding rooms, toilet rooms, treatment rooms, examination rooms, diagnostic, imaging, and similar spaces; and

(vi) terrazzo for offices, lobbies, administrative areas, and similar spaces.

(B) Thresholds at doorways shall not exceed 3/4-inch in height for exterior sliding doors or 1/2-inch for other type doors. Raised thresholds and floor level changes at accessible doorways shall be beveled with a slope no greater than 1:2. Expansion joint covers shall not exceed 1/2-inch in height and shall have beveled edges with a slope no greater than 1:2.

(4) Wall finishes. Wall finishes in patient exam, treatment, or diagnostic rooms, toilet rooms, soiled work room, clean work/storage rooms, and laboratory, shall be smooth,

washable, moisture resistant, and cleanable by standard housekeeping practices. Wall finishes shall be in compliance with the requirements of NFPA 101, §38.3.3, relating to flame spread.

(A) Wall finishes shall be water-resistant in the immediate area of plumbing fixtures.

(B) Wall finishes in areas subject to frequent wet cleaning methods shall be impervious to water, tightly sealed, and without voids.

(5) Ceiling finishes. All occupied rooms and spaces shall be provided with finished ceilings, unless otherwise noted. Ceilings which are a part of a rated roof/ceiling assembly or a floor/ceiling assembly shall be constructed of listed components and installed in accordance with the listing. Three types of ceilings that are required in various areas of the facility are:

(A) ordinary ceilings are required in all areas or rooms in the facility unless otherwise noted. This includes ceilings such as acoustical tiles installed in a metal grid which are dry cleanable with equipment used in daily housekeeping activities such as dusters and vacuum cleaners;

(B) washable ceilings that dictate this type of cleaning or protection for these spaces (such as soil utility or soil workroom). The ceilings shall be made of washable, smooth, moisture impervious materials such as painted lay-in gypsum wallboard or vinyl faced acoustic tile in a metal grid; and

(C) monolithic ceilings which are monolithic from wall to wall (painted solid gypsum wallboard), smooth and without fissures, open joints, or crevices, and with a washable and moisture impervious finish shall be provided in the airborne isolation rooms, soiled workrooms, trauma rooms, and sterilizing facilities when provided.

(D) Nonfinished ceilings may be omitted in mechanical, electrical, communication rooms, shops, and similar spaces unless required for fire-resistive purposes.

(6) Floor, wall, and ceiling penetrations. Floor, wall, and ceiling penetrations by pipes, ducts, and conduits, or any direct openings shall be tightly sealed to minimize entry of dirt particles, rodents, and insects. Joints of structural elements shall be similarly sealed.

(7) Material finishes. Materials known to produce noxious gases when burned shall not be used for mattresses, upholstery, and wall finishes.

(g) General mechanical requirements. This subsection contains requirements for mechanical systems; air conditioning, heating and ventilating systems; steam and hot and cold water systems; and thermal and acoustical insulation.

(1) Cost. All mechanical systems shall be designed for overall efficiency and life cycle costing, including operational costs. Recognized engineering practices shall be followed to

achieve the most economical and effective results except that in no case shall patient care or safety be sacrificed for conservation.

(2) Equipment location. Mechanical equipment may be located indoors, outdoors when in a weatherproof enclosure, or in a separate building(s).

(3) Vibration isolation. Mechanical equipment shall be mounted on vibration isolators as required to prevent unacceptable structure-borne vibration. Ducts, pipes, etc. connected to mechanical equipment which is a source of vibration shall be isolated from the equipment with vibration isolators.

(4) Performance and acceptance. Prior to completion and acceptance of the facility to the owner/operator, all mechanical systems shall be tested, balanced, and operated to demonstrate to the design engineer or their representative that the installation and performance of these systems conform to the requirements of the plans and specifications.

(A) Upon completion of the contract, the facility owner/operator shall obtain from the construction contractor parts lists and procurement information with numbers and descriptions for each piece of equipment.

(B) Upon completion of the contract, the facility owner/operator shall obtain from the construction contractor instructions in the operational use and maintenance of systems and equipment as required.

(5) Heating, ventilating, and air conditioning (HVAC) systems.

(A) All central HVAC systems shall comply with and shall be installed in accordance with the requirements of NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems, 2002 Edition, or NFPA 90B, Standard for the Installation of Warm Air Heating and Air-Conditioning Systems, 2002 Edition, as applicable and the requirements contained in this paragraph. Air handling units serving two or more rooms are considered to be central units.

(B) Noncentral air handling systems, i.e., individual room units that are used for heating and cooling purposes (e.g., fan-coil units, heat pump units, and packaged terminal air conditioning units) shall be equipped with permanent (cleanable) or replaceable filters. The filters shall have an average efficiency of 25 - 30% and an average arrestance of 85% based on American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), Inc., Standard 52.2, 1999 edition, Method of Testing General Ventilation Air Cleaning Devices for Removal Efficiency by Particle Size. These units shall be used as air recirculating units only. All outdoor air requirements shall be met by a separate central air handling system with the proper filtration, as required in Table 1 of §131.148(a) of this title.

(C) General ventilation requirements. All rooms and areas in the facility shall have provision for positive ventilation. Fans serving exhaust systems shall be located at the discharge end and shall be conveniently accessible for service. Exhaust systems may be

combined, unless otherwise noted, for efficient use of recovery devices required for energy conservation. The ventilation rates shown in Table 1 of §131.148(a) of this title shall be used only as minimum requirements, since they do not preclude the use of higher rates that may be appropriate.

(i) To reduce utility costs, facility design may utilize energy conserving procedures including recovery devices, variable air volume, load shedding, systems shutdown, or reduction of ventilation rates (when specifically permitted) in certain areas when unoccupied. In no case shall patient care be jeopardized.

(ii) Mechanical systems shall be arranged to take advantage of outside air conditions by using an economizer cycle when appropriate to reduce heating and cooling systems loads. Innovative design that provides for additional energy conservation while meeting the intent of this section for acceptable patient care may be presented to the department for consideration.

(iii) Fully ducted supply, return and exhaust air for HVAC systems shall be provided for all patient care areas, storage rooms, and where required for fire safety purposes. Combination systems, utilizing both ducts and plenums for movement of air in these areas, shall not be permitted. All ductwork access panels shall be labeled.

(iv) The designed capacity of the HVAC systems shall be capable of providing the ranges of temperatures and humidities as shown in Table 1 of §131.148(a) of this title. Where no values are noted or indicated, the indoor design temperature in all other areas shall be between 68 and 75 degrees Fahrenheit with relative humidity of not less than 30%.

(v) Each trauma room shall have temperature and humidity indicating devices mounted at eye level.

(vi) Outside air intake locations.

(I) Outside air intakes shall be located at least 25 feet from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum system outlets, plumbing vents, or areas which may collect vehicular exhaust or other noxious fumes. (Prevailing winds and proximity to other structures may require other arrangements.)

(II) Plumbing and vacuum vents that terminate five feet above the level of the top of the air intake may be located as close as 10 feet to the air intake.

(III) The bottom of outside air intakes serving central systems shall be located as high as practical but at least six feet above ground level, or if installed above the roof, 3 feet above the roof level.

(vii) Contaminated air exhaust outlets from areas (laboratory hoods, etc.) that exhaust contaminated air shall be above the roof and be arranged to exhaust

upward unless the air has been treated by an appropriate means where sidewall exhaust will be allowed.

(viii) All toilet exhaust ventilation shall be exhausted to the exterior. Exhaust systems may be combined, unless otherwise noted, for efficient use of recovery devices required for energy conservation.

(ix) Directional air flow. Ventilation systems shall be designed and balanced to provide pressure relationships contained in Table 1 of §131.148(a) of this title. Provisions in Note 4 of Table 1 of §131.148(a) of this title shall be followed for the reductions and shut down of ventilation systems when a room is unoccupied.

(x) Air distribution devices. Turbulence and other factors of air movement to minimize airborne particulate matter shall be considered in the design of air distribution devices. Where extraordinary procedures require special designs, the installation shall be reviewed on a case-by-case basis.

(I) All supply diffusers grilles shall be located on the ceiling or on a wall within four inches from the ceiling.

(II) Air supply for the treatment rooms/areas, exam rooms/areas, and trauma rooms/areas shall be from ceiling outlets near the center of the work area to efficiently control air movement.

(III) A minimum of two return air inlets located diagonally opposite from one another and near floor level shall be provided. Bottoms of the wall mounted return air grilles in trauma and other anesthetizing locations shall be at least four inches above the floor.

(xi) The air handling units (AHU) shall not be started or operated without the filters installed in place, including. This includes the 90% efficiency filters where required. This includes during construction operations. Ducts shall be cleaned thoroughly and throughout by a National Air Duct Cleaners Association (NADCA) certified air duct cleaning contractor when the air handling systems have been operating without the required filters in place. When ducts are determined to be dirty or dusty, the department shall require a written report assuring cleanliness of duct and clean air quality.

(xii) When duct humidifiers are located upstream of the final filters, they shall be located at least 15 feet from the filters. Duct work with duct-mounted humidifiers shall be provided with a means of removing water accumulation. An adjustable high-limit humidistat shall be located downstream of the humidifier to reduce the potential of condensation inside the duct. All duct takeoffs shall be sufficiently downstream of the humidifier to ensure complete moisture absorption. Reservoir-type water spray or evaporative pan humidifiers shall not be used.

(xiii) All air handling units shall be equipped with filters having efficiencies equal to, or greater than, those specified in Table 2 of §131.148(b) of this title. Filter efficiencies shall be average dust spot efficiencies tested in accordance with American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), Inc., Standard 52.2, 1999 edition, Method of Testing General Ventilation Air-Cleaning Devices for Removal Efficiency by Particle Size. All joints between filter segments, and between filter segments and the enclosing ductwork, shall have gaskets and seals to provide a positive seal against air leakage. Air handlers serving more than one room shall be considered as central air handlers. All documents published by ASHRAE as referenced in this section may be obtained by writing or calling the ASHRAE, Inc. at the following address or telephone number: ASHRAE, 1791 Tullie Circle, Northeast, Atlanta, Georgia 30329; telephone (404) 636-8400.

(I) Filtration for air handling units serving single rooms requiring asepsis control. Dedicated air handlers serving only one room where asepsis control is required (such as, but not limited to trauma rooms/areas, treatment rooms/areas, exam rooms/areas) shall be equipped with filters having efficiencies equal to, or greater than, those specified for patient care areas in Table 2 of §131.148(b) of this title.

(II) Filtration requirements for air handling units serving other single rooms. Dedicated air handlers serving all other single rooms shall be equipped with nominal filters installed at the return air system.

(III) Location of multiple filters. Where two filter beds are required by Table 2 of §131.148(b) of this title, filter bed number one shall be located upstream of the air conditioning equipment, and filter bed number two shall be downstream of the supply air blowers, cooling and heating coils.

(IV) Where only one filter bed is required by Table 2 of §131.148(b) of this title, it shall be located upstream of the supply fan. Filter frames shall be durable and constructed to provide an airtight fit with the enclosing ductwork.

(V) Pressure monitoring devices. A manometer or draft gauge shall be installed across each filter bed having a required efficiency of 75% or more, including laboratory hoods requiring high efficiency particulate air (HEPA) filters. The pressure monitoring device shall be mounted below the ceiling line within the facility such that it can be observed by staff.

(D) Thermal and acoustical insulation for air handling systems. Asbestos containing insulation materials shall not be used.

(i) Air ducts and casings with outside surface temperature below the ambient dew point or temperature above 80 degrees Fahrenheit shall be provided with thermal insulation.

(ii) When installed, linings in air ducts and equipment shall meet the Erosion Test Method described in Underwriters Laboratories (UL), Standard 181, relating to

Factory-Made Duct Materials and Air Duct Connectors, April 4, 1996 edition. This document may be obtained from the Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096.

(iii) Interior and exterior insulation, including finishes and adhesives on the exterior surfaces of ducts and equipment, shall have a flame spread rating of 25 or less and a smoke developed rating of 50 or less as required by NFPA 90A, Chapters 4 and 5 and as determined by an independent testing laboratory in accordance with NFPA 255, A Standard Method of Test of Surface Burning Characteristics of Building Materials, 2000 Edition.

(iv) Duct lining and acoustical traps exposed to air movement shall not be used in ducts serving any trauma rooms, treatment rooms, examination rooms, holding areas, clean room, and critical care areas. This requirement shall not apply to mixing boxes and acoustical traps that have approved nonabrasive coverings over such linings.

(v) Insulation of soft and spray-on types shall not be used where subject to air currents or mechanical erosion or where loose particles may create a maintenance problem or occupant discomfort.

(vi) Internal linings shall not be used in ducts, terminal boxes, or other air system components supplying all patient care areas. This requirement shall not apply to mixing boxes and acoustical traps that have special coverings over such lining.

(E) Ventilation for anesthetizing locations. When anesthesia is administered, ventilation for anesthetizing locations, as defined in NFPA 99, §3-3, shall comply with NFPA 99, §13.4.1.2 and any specific ventilation requirements of clauses (i) - (iii) of this subparagraph.

(i) Smoke removal systems for anesthetizing locations. Smoke removal systems shall be provided in all windowless anesthetizing locations in accordance with NFPA 99, §6.4.1.2. Supply and exhaust systems for windowless anesthetizing locations shall be arranged to automatically exhaust smoke and products of combustion, prevent recirculation of smoke originating within the surgical suite, and prevent the circulation of smoke entering the system intakes, without in either case interfering with the exhaust function of the system.

(ii) Smoke removal systems for surgical suites. Smoke removal systems shall be provided in all surgical suites in accordance with NFPA 99, §6.4.1.3.

(iii) Smoke exhaust grilles. Exhaust grilles for smoke evacuation systems shall be ceiling-mounted or wall-mounted within 12 inches of the ceiling.

(F) Location of return and exhaust air devices. The bottoms of wall-mounted return and exhaust air openings shall be at least four inches above the floor. Return air openings located less than six inches above the floor shall be provided with nominal filters. All exhaust air openings and return air openings located higher than six inches but less than seven

feet above the floor shall be protected with grilles or screens having openings through which a one-half inch sphere will not pass.

(G) Ray protection. Ducts which penetrate construction intended for X-ray or other ray protection shall not impair the effectiveness of the protection.

(H) Fire damper requirements. Fire dampers shall be located and installed in all ducts at the point of penetration of a required two-hour or higher fire-rated wall or floor in accordance with the requirements of NFPA 101, §18.5.2.

(I) Smoke damper requirements. Smoke dampers shall be located and installed in accordance with the requirements of NFPA 101, §20.3.7.3, and NFPA 90A, Chapter 5.

(i) Combination fire and smoke leakage limiting dampers (Class II) shall be installed in accordance with manufacturer's instructions for all ducts penetrating one and two-hour rated fire and smoke partitions required by NFPA 101, §20.3.7, Subdivision of Building Space (not required in facility meeting the provisions of NFPA 101, §20.3.7.2, Exception Number 1).

(ii) Combination smoke and fire dampers shall close on activation of the fire alarm system by smoke detectors installed and located as required by National Fire Protection Association 72, National Fire Alarm Code, 2002 Edition (NFPA 72), Chapter 8; NFPA 90A, Chapter 6; and NFPA 101, §20.3.5; the fire sprinkler system; and upon loss of power. Smoke dampers shall not close by fan shutdown alone unless it is a part of an engineered smoke removal system.

(iii) Air handling fans and smoke damper controls may be interconnected so that closing of smoke dampers will not damage the ducts.

(iv) Use of frangible devices for shutting smoke dampers is not permitted.

(J) Acceptable damper assemblies. Only fire damper and smoke damper assemblies integral with sleeves and listed for the intended purpose shall be acceptable.

(K) Duct access doors. Unobstructed access to duct openings in accordance with NFPA 90A, §4.3, shall be provided in ducts within reach and sight of every fire damper, smoke damper and smoke detector. Each opening shall be protected by an internally insulated door which shall be labeled externally to indicate the fire protection device located within.

(L) Restarting controls. Controls for restarting fans may be installed for convenient fire department use to assist in evacuation of smoke after a fire is controlled, provided that provisions are made to avoid possible damage to the system because of closed dampers. To accomplish this, smoke dampers shall be equipped with remote control devices.

(M) Make-up air. If air supply requirements in Table 1 of §131.148(a) of this title do not provide sufficient air for use by exhaust hoods and safety cabinets, filtered make-up air shall be ducted to maintain the required air flow direction in that room. Make-up systems for hoods shall be arranged to minimize short circuiting of air and to avoid reduction in air velocity at the point of contaminant capture.

(h) Piping systems and plumbing fixture requirements. All piping systems and plumbing fixtures shall be designed and installed in accordance with the requirements of the National Standard Plumbing Code Illustrated published by the National Association of Plumbing-Heating-Cooling Contractors (PHCC), 2003 edition, and this paragraph. The National Standard Plumbing Code may be obtained by writing or calling the PHCC at the following address or telephone number: Plumbing-Heating-Cooling Contractors, P. O. Box 6808, Falls Church, Virginia 22046; telephone (800) 533-7694.

(1) Piping systems.

(A) Water supply piping systems. Water service pipe to point of entrance to the building shall be brass pipe, copper tube (not less than type M when buried directly), copper pipe, cast iron water pipe, galvanized steel pipe, or approved plastic pipe. Domestic water distribution system piping within buildings shall be brass pipe, copper pipe, copper tube, or galvanized steel pipe. Piping systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand.

(i) Each water service main, branch main, riser, and branch to a group of fixtures shall be equipped with accessible and readily identifiable shutoff valves. Stop valves shall be provided at each fixture.

(ii) Backflow preventers (vacuum breakers) shall be installed on hose bibs, laboratory sinks, janitor sinks, bedpan flushing attachments, and all other fixtures to which hoses or tubing can be attached. Connections to high hazard sources, e.g., X-ray film processors, shall be from a cold water hose bib through a reduced pressure principle type backflow preventer (RPBFP).

(iii) Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers.

(iv) Water heating equipment shall have sufficient capacity to supply water for all clinical needs based on accepted engineering practices using actual number and type of fixtures and for heating, when applicable.

(v) Hot water distribution system serving all patient care areas shall be under constant recirculation to provide continuous hot water at each hot water outlet.

(vi) Water temperatures shall be measured at hot water point of use or at the inlet to processing equipment. Hot water temperature at point of use for patients, staff, and visitors shall be in the range of 105 to 120 degrees Fahrenheit.

(vii) When potable water storage tanks (hot and cold) are used, the water shall be used and replenished. Domestic water storage tank(s) shall be fabricated of corrosion-resistant metal or lined with noncorrosive material. Water shall not be stored in tanks for future use unless the water is tested weekly for contaminants/bacteria.

(viii) Purified water distribution system piping shall be task specific and include, but not necessarily be limited to, polypropylene (PP), polyvinylidene fluoride (PVDF) or polyvinyl chloride (PVC) pipe. Final installed purified water system piping assemblies shall be UL approved and fully comply with applicable American Society for Testing and Materials (ASTM) Fire Resistant/Smoke Density requirements. The applicable documents are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959.

(ix) Dead-end piping (risers with no flow, branches with no fixture) shall not be installed. In any renovation work, dead-end piping shall be removed. Empty risers, mains and branches installed for future use are permitted.

(B) Fire sprinkler systems. When provided, fire sprinkler systems shall comply with the requirements of NFPA 101, §9.7, Automatic Sprinklers and Other Extinguishing Equipment, and the requirements of this subparagraph. All fire sprinkler systems shall be designed, installed, and maintained in accordance with the requirements of NFPA 13, Standard for the Installation of Sprinkler Systems, 2002 Edition, and shall be certified as required by §131.147(c)(1)(C) of this title (relating to Construction, Inspection, and Approval of Project).

(C) Piped nonflammable medical gas and clinical vacuum systems. Piped nonflammable medical gas and clinical vacuum system shall be designed, installed, and certified in accordance with the requirements of NFPA 99, §5.1 for Level 1 Piped Systems and the requirements of this subparagraph.

(i) Nonflammable medical gas and clinical vacuum outlets shall be provided in accordance with Table 3 of §131.148(c) of this title.

(ii) Medical gas piping systems including source tanks and related piping shall be installed only by, or under the direct supervision of, a holder of a master plumber license or a journeyman plumber license with a medical gas piping installation endorsement issued by the Texas State Board of Plumbing Examiners.

(iii) Prior to closing of walls, the installer shall perform an initial pressure test, a blowdown test, a secondary pressure test, a cross-connection test, and a purge of the piping system as required by NFPA 99.

(iv) Qualifications verification testing shall be performed and inspected by a party, other than the installer, installing contractor, or material vendor. Testing shall be conducted by a medical gas system verifier registered with an acceptable organization by this department and is technically competent and experienced in the field of medical gas and vacuum pipeline testing and meets the requirements of The American Society of Safety Engineers (ASSE) Personnel Standard 6030, Professional Qualifications Standard for Medical Gas Systems. The document published by ASSE Personnel Standard 6030, Professional Qualifications Standard for Medical Gas Systems as referenced in this rule may be obtained by writing or calling The American Society of Safety Engineers (ASSE) at ASSE International Office, 901 Canterbury, Suite A, Westlake, Ohio 44145, telephone (440) 885-3040.

(v) Upon completion of the installer inspections and tests and after closing of walls, verification tests of the medical gas piping systems, the warning system, and the gas supply source shall be conducted. The verification tests shall include a cross-connection test, valve test, flow test, piping purge test, piping purity test, final tie-in test, operational pressure tests, and medical gas concentration test.

(vi) Verification testing of the medical gas piping systems and the warning systems shall be performed on all new piped medical gas systems, additions, renovations, or repaired portions of an existing system. All systems that are breached and components that are added, renovated, or replaced shall be inspected and appropriately tested. The breached portions of the systems subject to inspection and testing shall all be of the new and existing components in the immediate zone or area located upstream of the point or area of intrusion and downstream to the end of the system or a properly installed isolation valve.

(vii) Verification tests of piped medical gas systems shall include tests of the source alarms and monitoring safeguards, master alarm systems, and the area alarm systems.

(viii) Source equipment verification tests. Source equipment verification tests shall include medical gas supply sources (bulk and manifold) and the compressed air source systems (compressors, dryers, filters, and regulators).

(ix) Before new piped medical gas systems, additions, renovations, or repaired portions of an existing system are put into use, facility medical personnel shall be responsible for ensuring that the gas delivered at the outlet is the gas shown on the outlet label and that the proper connecting fittings are checked against their labels.

(x) Upon successful completion of all verification tests, written certification for affected piped medical gas systems and piped medical vacuum systems including the supply sources and warning systems shall be provided by a party technically competent and experienced in the field of medical gas pipeline testing stating that the provisions of NFPA 99 have been adhered to and systems integrity has been achieved. The written certification shall be submitted directly to the facility and the installer. A copy shall be available at final department construction inspection.

(xi) Documentation of the installed, modified, extended or repaired medical gas piping system shall be submitted to the department by the same party certifying the piped medical gas systems. The number and type of medical gas outlets (e.g., oxygen, vacuum, medical air, nitrogen, nitrous oxide) shall be documented and arranged tabularly by room numbers and room types.

(D) Main storage of medical gases may be outside or inside the facility in accordance with NFPA 99, §5.1. Provision shall be made for additional separate storage of reserve gas cylinders necessary to complete at least one day's procedures.

(E) Multiple gas outlets on one medical gas outlet. Y-connections, "twinning," or other similar devices shall not be used on any medical gas outlet.

(2) Steam and hot water systems.

(A) Boilers. When provided, the boilers shall have the capacity, based upon the net ratings as published in The I-B-R Ratings Book for Boilers, Baseboard Radiation and Finned Tube (commercial) by the Hydronics Institute Division of GAMA, to supply the normal heating, hot water, and steam requirements of all systems and equipment. The document published by the Hydronics Institute Division of GAMA as referenced in this rule may be obtained by writing or calling the Hydronics Institute Division of GAMA at 35 Russo Place, P. O. Box 218, Berkeley Heights, New Jersey 07922, telephone (908) 464-8200.

(i) Boiler feed pumps, heating circulating pumps, condensate return pumps, and fuel oil pumps shall be connected and installed to provide normal and standby service.

(ii) Supply and return mains and risers of cooling, heating, and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends except that vacuum condensate returns need not be valved at each piece of equipment.

(B) When required, the facility shall ensure compliance with Texas Department of Licensing and Regulation, Boiler Section, Texas Boiler Law (Health and Safety Code, Chapter 755, Boilers), which requires certification documentation for boilers to be posted on site at each boiler installation.

(3) Building sewers shall discharge into a community sewage system. Where such a system is not available, a facility providing sewage treatment shall conform to applicable local and state regulations.

(A) Above ground piping. Soil stacks and roof drains installed above ground within buildings shall be drain-waste-vent (DWV) weight or heavier and shall be: copper pipe, copper tube, cast iron pipe, or Schedule 40 polyvinyl chloride (CPVC) pipe.

(B) All underground building drains shall be cast iron soil pipe, hard temper copper tube (DWV schedule 40 or heavier), acrylonitrile-butadiene-styrene (ABS) plastic pipe, or PVC, VCP, CPVC pipe. Underground piping shall have at least 12 inches of earth cover or comply with local codes. Existing buildings or portions of buildings that are being remodeled need not comply with this subparagraph.

(C) Separate drainage systems for chemical wastes (acids and other corrosive materials) shall be provided. Materials acceptable for chemical waste drainage systems shall include chemically resistant borosilicate glass pipe, high silicone content cast iron pipe, polypropylene plastic pipe, or plastic lined pipe.

(D) Drainage and waste piping shall not be installed above or below ceilings in trauma rooms/areas and sterile processing rooms unless precautions are taken to protect the space below from leakage and condensation from necessary overhead piping. Secondary protection shall be required to drain. Any required secondary protection shall be labeled, "code required secondary drain system" every 20 feet in a highly visible print or label.

(4) Thermal insulation for piping systems and equipment. Asbestos containing insulation materials shall not be used.

(A) Insulation shall be provided for the following:

- (i) boilers, smoke breeching, and stacks;
- (ii) steam supply and condensate return piping;
- (iii) hot water piping and all hot water heaters, generators, converters, and storage tanks;
- (iv) chilled water, refrigerant, other process piping, equipment operating with fluid temperatures below ambient dew point, and water supply and drainage piping on which condensation may occur. Insulation on cold surfaces shall include an exterior vapor barrier; and
- (v) other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

(B) Insulation flame spread. Flame spread shall not exceed 25 and smoke development rating shall not exceed 50 for pipe insulation as determined by an independent testing laboratory in accordance with NFPA 255, Standard Method of Test of Surface Burning Characteristics of Building Materials, 2000 Edition.

(5) Plumbing fixtures. Plumbing fixtures shall be made of nonabsorptive, acid-resistant materials and shall comply with the requirements of the National Standard Plumbing Code, and this paragraph.

(A) Sink and lavatory controls. All lavatories used by medical and nursing staff and by patients shall be trimmed with valves or electronic controls which can be operated without the use of hands. Blade handles used for this purpose shall not be less than four inches in length. Single lever or wrist blade devices may also be used.

(B) Clinical sink traps. Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(C) Back-flow or siphoning. All plumbing fixtures and equipment shall be designed and installed to prevent the back-flow or back-siphonage of any material into the water supply. The over-the-rim type water inlet shall be used wherever possible. Vacuum-breaking devices shall be properly installed when an over-the-rim type water inlet cannot be utilized.

(D) Drinking fountain. Each drinking fountain shall be designed so that the water issues at an angle from the vertical, the end of the water orifice is above the rim of the bowl, and a guard is located over the orifice to protect it from lip contamination.

(E) Sterilizing equipment. All sterilizing equipment shall be designed and installed to prevent contamination of the water supply and the entrance of contaminating materials into the sterilizing units.

(F) Hose attachment. No hose shall be affixed to any faucet if the end of the hose may become submerged in contaminated liquid unless the faucet is equipped with an approved, properly installed vacuum breaker.

(G) Bedpan washers and sterilizers. When provided, bedpan washers and sterilizers shall be designed and installed so that both hot and cold water inlets shall be protected against back-siphonage at maximum water level.

(H) Flood level rim clearance. The water supply spouts for lavatories and sinks required in patient care areas shall be mounted so that their discharge points are a minimum of five inches above the rim of the fixture.

(I) Scrub sink controls. Freestanding scrub sinks and lavatories used for scrubbing in procedure rooms shall be trimmed with foot, knee, or electronic hands-free controls. Single lever wrist blades are not acceptable at scrub sinks.

(J) Floor drains or floor sinks. Where floor drains or floor sinks are installed, they shall be of a type that can be easily cleaned by removal of the cover. Removable stainless steel mesh shall be provided in addition to a grilled drain cover to prevent entry of large particles of waste which might cause stoppages.

(K) Under counter piping. Under counter piping and above floor drains shall be arranged (raised) so as not to interfere with cleaning of the floor below the equipment.

(L) Ice machines. All ice-making machines used to provide ice for human consumption shall be of the self-dispensing type. Copper tubing shall be provided for supply connections to ice machines.

(i) General electrical requirements. This subsection contains common electrical and essential emergency system requirements.

(1) Electrical requirements. All electrical material and equipment, including conductors, controls, and signaling devices, shall be installed in compliance with applicable sections of the NFPA 70, National Electrical Code, 2002 Edition, §517; NFPA 99, Chapter 14; the requirements of this subsection, and as necessary to provide a complete electrical system. Electrical systems and components shall be listed by nationally recognized listing agencies as complying with available standards and shall be installed in accordance with the listings and manufacturer's instructions.

(A) All fixtures, switches, sockets, and other pieces of apparatus shall be maintained in a safe and working condition.

(B) Extension cords and cables shall not be used for permanent wiring.

(C) All electrical heating devices shall be equipped with a pilot light to indicate when the device is in service, unless equipped with a temperature limiting device integral with the heater.

(D) All equipment, fixtures, and appliances shall be properly grounded in accordance with NFPA 70.

(E) Under counter electrical installations shall be arranged (raised) to not interfere with floor cleaning below the equipment.

(2) Installation testing and certification.

(A) Installation testing. The electrical installations, including grounding continuity, fire alarm, nurses calling system and communication systems, shall be tested to demonstrate that equipment installation and operation is appropriate and functional. A written record of performance tests on special electrical systems and equipment shall show compliance with applicable codes and standards and shall be available to the department upon request.

(B) Grounding system testing. The grounding system shall be tested as described in NFPA 99, §4.3.3, for patient care areas in new or renovated work. The testing shall be performed by a qualified electrician or their qualified electrical testing agent. The electrical contractor shall provide a letter stating that the grounding system has been tested in accordance with NFPA 99, the testing device use complies with NFPA 99, and whether the grounding system passed the test. The letter shall be signed by the qualified electrical contractor, or their designated qualified electrical testing agent, certifying that the system has been tested and the results of the test are indicated.

(3) Electrical safeguards. Shielded isolation transformers, voltage regulators, filters, surge suppressors, and other safeguards shall be provided as required where power line disturbances are likely to affect fire alarm components, data processing, equipment used for treatment, and automated laboratory diagnostic equipment.

(4) Services and switchboards. Electrical service and switchboards serving the required facility components shall be installed above the designated 100-year flood plain. Main switchboards shall be located in separate rooms, separated from adjacent areas with one-hour fire-rated enclosures containing only electrical switchgear and distribution panels and shall be accessible to authorized persons only. These rooms shall be ventilated to provide an environment free of corrosive or explosive fumes and gases, or any flammable and combustible materials. Switchboards shall be located convenient for use and readily accessible for maintenance as required by NFPA 70, Article 384. Overload protective devices shall operate properly in ambient temperatures.

(5) Panelboard. Panelboards serving normal lighting and appliance circuits shall be located on the same floor as the circuits they serve. Panelboards serving critical branch emergency circuits shall be located on each floor that has major users (treatment rooms/areas, exam rooms/areas, trauma rooms/areas, etc.) and may also serve the floor above and the floor below. Panelboards serving life safety branch circuits may serve three floors, the floor where the panelboard is located, and the floors above and below.

(6) Wiring. All conductors for controls, equipment, lighting and power operating at 100 volts or higher shall be installed in metal or metallic raceways in accordance with the requirements of NFPA 70, Article 517. All surface mounted wiring operating at less than 100 volts shall be protected from mechanical injury with metal raceways to a height of seven feet above the floor. Conduits and cables shall be supported in accordance with NFPA 70, Article 300.

(7) Mechanical protection of the emergency system. The wiring of the emergency system shall be mechanically protected by installation in nonflexible metal raceways in accordance with NFPA 70, §517.30(C)(3).

(8) Lighting.

(A) Lighting intensity for staff and patient needs shall comply with guidelines for health care facilities set forth in the Illuminating Engineering Society of North America (IESNA) Handbook, 2000 edition, published by the IESNA, 120 Wall Street, Floor 17, New York, New York 10005.

(i) Light intensity and wavelength control to prevent harm to the patient's eyes shall be considered.

(ii) Approaches to buildings and parking lots, and all spaces within buildings shall have fixtures that can be illuminated as necessary. All rooms and spaces

including storerooms, electrical and mechanical equipment rooms, and attics shall have sufficient artificial lighting for clear visibility.

(iii) The special needs of the elderly shall be considered. The facility shall minimize excessive contrast in lighting levels that makes effective sight adaptation difficult.

(B) Means of egress and exit sign lighting intensity shall comply with NFPA 101, §§7.8, 7.9, and 7.10.

(C) Electric lamps, which may be subject to breakage or which are installed in fixtures in confined locations when near woodwork, paper, clothing, or other combustible materials, shall be protected by wire guards, or plastic shields.

(D) Ceiling mounted surgical and examination light fixtures shall be suspended from rigid support structures mounted above the ceiling.

(E) Trauma rooms/areas shall have general lighting in addition to local lighting provided by special lighting units at the procedure tables. Each fixed special lighting unit at the tables, except for portable units, shall be connected to an independent circuit.

(F) X-ray film illuminators for handling at least two films simultaneously shall be provided in each trauma room/area and treatment room/area. When the entire emergency suite is provided with digital imaging system capabilities, a minimum of two X-ray film illuminator viewers shall be provided. The film illuminators shall be mounted within the central area of the emergency suite.

(9) Receptacles. Only listed hospital grade single-grounding or duplex-grounding receptacles shall be used in the trauma, treatment, exam, diagnostic, imaging rooms, and all patient care areas. This does not apply to special purpose receptacles.

(A) Installations of multiple-ganged receptacles shall not be permitted in all patient care areas.

(B) Electrical outlets powered from the critical branch shall be provided in all patient care areas, diagnostic, imaging, procedure and treatment locations in accordance with NFPA 99, §4.4.2.2.3. At least one receptacle at each patient treatment or procedure location shall be powered from the normal power panel. All receptacles powered from the critical branch shall be colored red.

(C) Replacement of malfunctioning receptacles and installation of new receptacles powered from the critical branch in existing facilities shall be replaced or installed with receptacles of the same distinct color as the existing receptacles.

(D) All receptacles connected to the essential electrical system shall be identified. The face plate for the receptacle(s) shall have a nonremovable label or be engraved indicating the panel and circuit number.

(E) In locations where mobile X-ray or other equipment requiring special electrical configuration is used, the additional receptacles shall be distinctively marked for the special use.

(F) Each receptacle shall be grounded to the reference grounding point by means of a green insulated copper equipment grounding conductor in accordance with NFPA 70, §517-13.

(G) Each treatment, examination, and trauma room in the emergency suite shall have a minimum of six duplex electrical receptacles located convenient to the head of each procedure table. All other walls shall have a minimum of at least one receptacle.

(H) Each work table or counter shall have access to one duplex receptacle for every six feet of table or counter space or fraction thereof. Each work counter and table shall have at least one duplex receptacle connected to the critical branch of the emergency electrical system.

(I) A minimum of one duplex receptacle in each wall shall be installed in each work area or room other than storage or lockers.

(J) Appliances shall be grounded in accordance with NFPA 99, Chapter 9.

(K) Ground fault circuit interrupters (GFCI) receptacles shall be provided for all general use receptacles located within three feet of a wash basin or sink. When GFCI receptacles are used, they shall be connected to not affect other devices connected to the circuit in the event of a trip. Receptacles connected to the critical branch used for equipment that should not be interrupted do not require GFCI protection. Receptacles in wet locations, as defined by NFPA 70, §§517.20 and 517.21, shall be GFCI protected regardless of the branch of the electrical system serving the receptacle.

(10) Equipment.

(A) The following shall be powered from the Type II essential electrical system in accordance with the requirements of NFPA 99, §3.4.2.2.3, when such a system is required for safe operation of the facility referenced in paragraph (14) of this subsection.

(i) Boiler accessories including feed pumps, heat-circulating pumps, condensate return pumps, fuel oil pumps, and waste heat boilers shall be connected to the equipment system.

(ii) Ventilating system serving trauma, treatment and exam rooms, shall be connected to the equipment system in accordance with the requirements of NFPA 99, Chapter 3.

(B) A "kill switch" shall be provided for disconnection of each HVAC serving the building in accordance with the requirements of NFPA 90A, §6.2.1.

(11) Wet patient care location. Wet patient care locations shall be protected against shock in accordance with the requirements of NFPA 99, §4.3.2.2.9.1.

(12) Grounding requirements. Fixed electrical equipment shall be grounded in accordance with the requirements of NFPA 99, §4.3.3.1, and NFPA 70, Article 517.

(13) Nurses calling systems.

(A) A nurse's emergency calling system shall be installed in the all treatment room/area station(s), exam rooms/area station(s), isolation room(s), patient holding stations, imaging, diagnostic and patient toilet room(s) to summon nursing staff in an emergency. Activation of the system shall sound a distinct audible signal which repeats every five seconds or less at the nurse station, indicate type and location of call on the system monitor, and activate a distinct visible signal in all areas. The activation of the system shall also activate distinct visible signals in the clean workroom, soiled workroom, and if provided, in the nourishment station. The visible and audible signals shall be cancelable only at the patient calling station. A nurse's emergency call system shall be accessible to a collapsed patient lying on the floor. Inclusion of a pull cord extending to within 6 inches of the floor will satisfy this requirement.

(B) A staff emergency assistance calling system station shall be located in each treatment room/area, examination room/area, trauma room/area, and holding room/area to be used by staff to summon additional help in an emergency. Activation of the system shall sound an audible signal at a staffed location, indicate type and location of call on the system monitor, and activate a distinct visible signal in the corridor at the door. Additional visible signals shall be installed at corridor intersections in multi-corridor facilities. Distinct visible and audible signals shall be activated in the clean workroom, in the soiled workroom, equipment storage, and if provided, in the nourishment station.

(14) Essential electrical system. The facility shall provide, at submission of construction documents/plans, a letter on facility letterhead indicating the method the facility has chosen for implementation of the emergency contingency plan for the continuity of emergency essential building systems (emergency generator). The contingency plan shall consist of one of the two options as described in subparagraphs (A) and (B) of this paragraph.

(A) An onsite emergency generator shall be provided with a Type II essential electrical distribution system in accordance with requirements of NFPA 99, §4.5 (2), and National Fire Protection Association 110, Standard for Emergency and Standby Power Systems, 2002 Edition.

(i) An emergency generator standby power system(s) shall require an onsite fuel source and enough fuel capacity in the tank for a period of twenty-four hours or more. The facility shall execute a contract with an outside supplier/vendor(s) that will provide fuel on demand. When a vapor liquefied petroleum gas (LPG) (natural gas) system is used, the twenty-four hour fuel capacity on site is not required. The vapor withdrawal LPG system shall require a dedicated fuel supply.

(ii) The emergency generator shall be installed, tested and maintained in accordance with the National Fire Protection Association 99, §4.5.4, and National Fire Protection Association 110, Standard for Emergency and Standby Power Systems, 2002 Edition.

(iii) When the emergency generator(s) and electrical transformer(s) are located within the same area, they shall be located at least 10 feet apart.

(iv) One electrical outlet connected to the life safety branch of the electrical system shall be provided adjacent to (or on) the emergency generator.

(v) The battery charger for emergency lighting at the emergency generator shall be connected to the life safety branch of the electrical system.

(B) An executed contract with an outside supplier/vendor(s) that will provide a portable emergency generator(s) and fuel on demand.

(i) An electrical transfer switch with plug-in device sized to provide emergency power for the patient care areas and the provisions in NFPA 99, §4.5.2.2.2.

(ii) An alternate source of power (battery power lighting) shall be provided separate and independent from the normal electrical power source that will be effective for a minimum of one and one half hours after loss of the electrical power. The emergency lighting system shall be capable of providing sufficient illumination to allow safe evacuation from the building. The battery pack systems shall be maintained and tested quarterly.

(iii) The facility shall implement the emergency contingency plan upon the loss of electrical power following a natural weather or man-made event when the electrical power may not be restored within 24 hours. The facility shall exercise the contract(s) with the supplier/vendor(s) to have portable emergency generator(s) available within 36 hours after the loss of electrical power.

(15) Fire alarm system. A fire alarm system which complies with NFPA 101, §20.3.4, and with NFPA 72, Chapter 6 requirements, shall be provided in each facility. The required fire alarm system components are as follows.

(A) A fire alarm control panel (FACP) shall be installed at a visual location such as the main lobby. A remote fire alarm annunciator listed for fire alarm service and installed at a continuously attended location and capable of indicating both visual and audible

alarm, trouble, and supervisory signals in accordance with the requirements of NFPA 72 may be substituted for the FACP.

(B) Manual fire alarm pull stations shall be installed in accordance with NFPA 101, §20.3.4.

(C) Ceiling-mounted smoke detector(s) shall be installed in room containing the FACP when this room is not attended continuously by staff as required by NFPA 72, §4.4.5.

(D) Smoke detectors shall be installed in air ducts in accordance with NFPA 72, §5.14.4.2 and §5.14.5 and NFPA 90A, §6.4.2.

(E) Smoke detectors shall be installed in return air ducts in accordance with requirements of NFPA 72 §5.14.4.2.2 and §5.14.5 and NFPA 90A, §6.4.2.2.

(F) Fire sprinkler system water flow switches shall be installed in accordance with requirements of NFPA 101, §9.6.2; NFPA 13, §6.9; and NFPA 72, §8.5.3.3.3.4.

(G) Sprinkler system valve supervisory switches shall be installed in accordance with the requirements of NFPA 72, §6.8.5.5.

(H) A fire alarm signal notification which complies with NFPA 101, §9.6.3, shall be provided to alert occupants of fire or other emergency.

(I) Audible alarm indicating devices shall be installed in accordance with the requirements of NFPA 101, §20.3.4, and NFPA 72, §7.4.

(J) Visual fire alarm indicating devices which comply with the requirements of NFPA 72, §7.5, shall be provided.

(K) Devices for transmitting alarm for alerting the local fire brigade or municipal fire department of fire or other emergency shall be provided. The devices shall be listed for the fire alarm service by a nationally recognized laboratory, and be installed in accordance with such listing and the requirements of NFPA 72.

(L) Wiring for fire alarm detection circuits and fire alarm notification circuits shall comply with requirements of NFPA 70, Article 760.

§131.144. Elevators, Escalators, and Conveyors.

(a) Elevators. All buildings that have patient services located on other than the main entrance floor shall have electric or electrohydraulic elevators. The elevators shall be installed in sufficient quantity, capacity, and speed to ensure that the average interval of dispatch time will not exceed one minute, and average peak loading can be accommodated. Elevators shall also give access to all building levels normally used by the public. Escalators and conveyors are not

required but, when provided, shall comply with these requirements and the requirement of §20.3 of the National Fire Protection Association 101, Life Safety Code, 2003 Edition (NFPA 101), published by the National Fire Protection Association. All documents published by the NFPA as referenced in this section may be obtained by writing or calling the NFPA at the following address and telephone number: P. O. Box 9101, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, (800) 344-3555.

(b) Requirements for new elevators, escalators, and conveyors. New elevators, escalators and conveyors shall be installed in accordance with the requirements of Health and Safety Code, Chapter 754, Elevators, Escalators, and Related Equipment, and A17.1 Safety Code for Elevators and Escalators, 2000 edition, published by the American Society of Mechanical Engineers (ASME) and the American National Standards Institute (ANSI). All documents published by the ASME/ANSI as referenced in this section may be obtained by writing the ANSI, United Engineering Center, 345 East 47th Street, New York, New York 10017.

(1) Location. Elevators shall not open to an exit.

(2) Elevator car size. A facility located above the ground floor must have an elevator of sufficient size to accommodate a gurney available at all times. Minimum elevator car size shall at least five feet eight inches wide by eight feet six inches deep.

(3) Car door opening. The smallest elevator car door opening shall be at least three feet wide and seven feet high.

(4) Elevator and elevator shaft doors. When light beams are used for operating door opening devices, the beams shall be used in combination with door edge devices and shall be interconnected with a system of smoke detectors. The light control feature shall be disengaged when smoke is detected in any elevator lobby.

(5) Type of controls and alarms. Elevator call buttons, controls, and door safety stops shall be of a type that will not be activated by heat or smoke.

(6) Leveling. All elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type with an accuracy of one-half inch.

(7) Operation. All elevators, except freight elevators, shall be equipped with a two-way key operated service switch permitting cars to bypass all landing button calls and be dispatched directly to any floor.

(8) Accessibility of controls and alarms. Elevator controls, alarm buttons, and telephones shall be accessible to wheelchair occupants in accordance with the Americans with Disabilities Act.

(9) Smoke detection system. A smoke detection system for elevator recall shall be located in elevator lobbies, elevator machine rooms and at the top of elevator hoist ways as required by NFPA 72, §6.15.3.10.

(A) The elevator recall smoke detection system in new construction shall comply with requirements of American Society of Mechanical Engineers/American National Standards Institute (ASME/ANSI) A17.1, Safety Code for Elevators and Escalators, 2000 edition. The publications of the ASME/ANSI referenced in this section may be obtained by writing ASME/ANSI, United Engineering Center, 345 East 47th Street, New York, New York 10017.

(B) The elevator recall smoke detection system in existing facilities shall comply with requirements of ASME/ANSI A17.3, Safety Code for Existing Elevators and Escalators, 2002 edition.

(10) Elevator machine rooms. Elevator machine rooms that contain solid-state equipment for elevators having a travel distance of more than 50 feet above the level of exit discharge or more than 30 feet below the level of exit discharge shall be provided with independent ventilation or air conditioning systems with the capability to maintain an operating temperature during fire fighter service operations. The operating temperature shall be established by the elevator equipment manufacturer's specifications and shall be posted in each elevator machine room. When standby power is connected to the elevator, the machine room ventilation or air conditioning shall be connected to standby power. These requirements are not applicable to existing elevators.

(11) Testing. A facility shall have all elevators and escalators routinely and periodically inspected and tested as specified in ASME/ANSI A17.1, Safety Code for Elevators and Escalators, 2000 edition. All elevators equipped with fire fighter service shall be subject to a monthly operation with a written record of the findings made and kept on the premises as required by NFPA 101, §9.4.6.

(12) Certification. A facility shall obtain a certificate of inspection evidencing that the elevators, escalators, conveyors, and related equipment were inspected in accordance with the requirements in Health and Safety Code, Chapter 754, Subchapter B, and determined to be in compliance with the safety standards adopted under Health and Safety Code, §754.014, administered by the Texas Department of Licensing and Regulation. The certificate of inspection shall be on record in each facility.

§131.145. Mobile, Transportable, and Relocatable Units.

(a) Definitions. The following definitions apply in this section.

(1) Mobile unit--Any pre-manufactured structure, trailer, or self-propelled unit equipped with a chassis on wheels and intended to provide shared medical services to the community on a temporary basis. Some of these units are equipped with expanding walls and designed to be moved on a daily basis.

(2) Relocatable unit--Any structure, not on wheels, that is built to be relocated at any time and provide medical services. These structures vary in size.

(3) Transportable unit--Any pre-manufactured structure or trailer, equipped with a chassis on wheels, intended to provide shared medical services to the community on an extended temporary basis. These units are designed to be moved periodically, depending on need.

(b) General. When mobile, transportable and relocatable units are utilized to provide patient treatment services on the facility premises, these units shall be treated as buildings and constructed to the required occupancy as follows.

(1) When such units are provided for diagnostic, imaging, treatment or procedural services to patients who are litter borne, under general anesthesia, or incapable of self-preservation, the unit shall be constructed in accordance with Chapter 20 of the National Fire Protection Association 101, Life Safety Code, 2003 edition (NFPA 101), relating to health care occupancy, published by the National Fire Protection Association. All documents published by the NFPA as referenced in this section may be obtained by writing or calling the NFPA at the following address and telephone number: P O Box 9101, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, (800) 344-3555.

(2) When such units provide diagnostic, imaging, treatment, or procedural services to patients who are not litter borne, not under general anesthesia, and are capable of self-preservation, the unit may be constructed in accordance with Chapter 38 of NFPA 101 (relating to Business Occupancy).

(c) Common elements.

(1) Site requirements.

(A) Sites shall have a level concrete or asphalt pad and be designed for the structural loads of the unit.

(B) The sites shall provide hazard-free drop-off zones and adequate parking for patients. The site and location of the unit shall not restrict access for fire or emergency vehicles.

(C) Each site shall provide access to the unit for the handicapped, and wheelchair and stretcher patients.

(D) The location of the unit shall be such that engine exhaust fumes from the unit are kept away from any fresh air intake of the facility.

(E) When a mobile, transportable, or relocatable unit does not move on a regular basis, i.e. every 90 days and the facility provides diagnostic and imaging services, the facility shall provide a permanent connected enclosure appropriately for the climate from the facility to the unit. These types of units shall be provided with the following equipment and systems physically connected to the facility:

- (i) fire alarm system;
- (ii) sprinkler system;
- (iii) electrical system and the essential electrical system;
- (iv) water and waste water system;
- (v) medical gas systems; and
- (vi) nurses calling systems.

(2) Support services. Support services shall meet the requirements of this chapter for new construction. These support services and areas shall be provided either within the mobile, transportable, or relocatable unit or located within the facility adjacent to the unit served.

§131.146. Preparation, Submittal, Review and Approval of Plans, and Retention of Records.

(a) General.

(1) Facility owners or operators shall not begin construction of a new building, additions to, or renovations, or conversions of existing buildings until the department approves final construction documents.

(2) Plans and specifications describing the construction of new buildings, and additions to, or renovations, and conversions of existing buildings shall be prepared by registered architects and/or licensed professional engineers and meet the requirements of this subchapter.

(3) The names of spaces used in the functional program narrative, preliminary documents, final construction documents, and specifications shall be consistent with the names of the spaces used in this chapter.

(4) The department shall notify the facility owner or operator of the result of its review of each type of submission discussed in this section.

(5) The facility owner or operator shall respond to all department requests for additional information, including providing a plan of correction for deficiencies cited by the department.

(6) Once final construction documents are approved, the facility owner or operator shall request inspections in accordance with §131.147 of this title (relating to Construction, Inspection, and Approval of Project).

(7) When construction is delayed or put on hold for longer than one year from the plan approval or self-certification approval date, construction documents shall be resubmitted to

the department for review and approval. The plans shall be accompanied by a new application for plan review and functional program narrative.

(8) The facility owner or operator shall provide written notification to the department when a project has been placed on hold, canceled, or abandoned.

(9) The department may close a project file after one year of assigning an application number to a project if the project has been placed on hold.

(b) Submission of projects and assignment of application number.

(1) The facility owner, operator, or representative shall submit the following items to the department in care of the mailing or overnight delivery address that appears on the application for plan review:

(A) a completed and signed application for plan review. The application for plan review may be obtained by calling the department or by visiting the department's website at www.dshs.state.tx.us/hfp;

(B) a functional program narrative in accordance with subsection (d) of this section; and

(C) final construction documents in accordance with subsection (f) of this section.

(2) The cost of submitting documents/plans and specifications shall be borne by the sender.

(3) Once the department has determined that the submission required in paragraph (1) of this subsection is complete, the department shall assign an application number to the project that shall be referenced on all documents and correspondence related to the project. Final construction documents shall be reviewed in the chronological order received.

(4) All deficiencies noted in the final plan review shall be satisfactorily resolved before approval of project for construction will be granted.

(5) Construction shall not begin until the facility owner or operator of the facility receives written notification from the department that the final construction documents have been approved.

(c) A facility owner, operator, or representative may request a feasibility conference. A feasibility conference is an informal meeting between a member of the department's architectural review group staff and the facility owner, operator, or representative to determine the feasibility of a project, for consultation and informational purposes, and to facilitate and establish understanding of compliance with the rules and codes.

(1) A feasibility conference is not a substitute for plan review.

(2) A facility owner, operator, or representative may schedule a feasibility conference by calling the department.

(3) The facility owner, operator, or representative shall provide at the feasibility conference the items in subsection (b)(1)(A) - (C) of this section and a set of preliminary plans or final construction documents.

(4) The facility owner, operator, or representative is responsible for recording conference notes and shall submit the notes to the department.

(d) The facility owner or operator shall submit a functional program narrative to the department with each new project in accordance with subsection (b)(1)(B) of this section. The functional program narrative shall be presented on facility letterhead, signed by facility administration, include the functional description of each space, and the following:

(1) departmental relationships, number of patient stations, and other basic information relating to the fulfillment of the facility's objectives;

(2) a description of each function to be performed, approximate space needed for these functions, occupants of the various spaces, projected occupant load, types of equipment required, interrelationship of various functions and spaces, and any special design features;

(3) energy conservation measures, included in building, mechanical, and electrical designs;

(4) a description of the type of asepsis control in diagnostic and treatment areas;
and

(5) the type of construction (existing or proposed) as stated in §20.1.6 of National Fire Protection Association 101, Life Safety Code, 2003 Edition (NFPA 101), published by the National Fire Protection Association. All documents published by the NFPA as referenced in this section may be obtained by writing or calling the NFPA at the following address and telephone number: 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (800) 344-3555.

(e) The department may request preliminary documents. If requested by the department, the submission shall consist of the items in subsection (b)(1)(A) - (C) of this section, preliminary plans, and outline specifications. The documents shall contain sufficient information to establish the project scope, description of functions to be performed, project location, required fire safety and exiting requirements, building construction type, compartmentation showing fire and smoke barriers, and the usage of all spaces, areas, and rooms on every floor level.

(f) Final construction documents and specifications shall be submitted to the department for review and approval before the start of construction. All final documents and specifications

shall be appropriately sealed and signed by the project registered architect and professional engineer(s) licensed by the State of Texas.

(1) The facility owner or operator shall submit to the department for review and approval the items in subsection (b)(1)(A) - (C) of this section (if not previously submitted with preliminary documents) and one set of final construction documents and specifications covering the construction of new buildings or alterations, additions, conversions, modernizations, or renovations to existing buildings.

(2) Construction documents shall be well-prepared so that clear and distinct prints may be obtained, shall be accurately and adequately dimensioned, shall include all necessary explanatory notes, schedules, and legends, and shall be adequate for contract purposes. Compliance with model building codes and this chapter shall be indicated. The type of construction, as classified by National Fire Protection Association 220, Standard on Types of Building Construction, 1999 Edition, shall be provided for existing and new facilities. Final plans shall be drawn to a sufficiently large-scale to clearly illustrate the proposed design but not less than one-eighth inch equals one foot. All spaces shall be identified by usage (using the names of spaces used in this chapter) on all plans (architectural, fire safety, mechanical, electrical, etc.) submitted. Separate drawings shall be prepared for each of the following branches of work.

(A) Architectural drawings shall include the following:

(i) a map of the area within a 500 foot radius of the facility site shall be provided and any hazardous and undesirable location noted in §131.143(a) of this title (relating to Construction Requirements for a New Facility) shall be identified;

(ii) site plan showing all new topography, newly established levels and grades, existing structures on the site (if any), new buildings and structures, roadways, parking, walks, easement, overhead or underground utilities or service lines, and the extent of the areas to be landscaped. All structures which are to be removed under the construction contract and improvements shall be shown. A general description of the immediate area surrounding the site shall be provided;

(iii) plan of each floor and roof to include fire and smoke separation, means of egress, and identification of all spaces;

(iv) schedules of doors, windows, and finishes;

(v) elevations of each facade;

(vi) sections through building; and

(vii) scaled details as necessary.

(B) Fire safety plan drawings shall be provided for all newly constructed buildings, conversions of existing buildings for facilities, additions to existing licensed facilities, and remodeled portions of existing buildings containing licensed facilities. Fire safety plan drawings shall be of a sufficiently large-scale to clearly illustrate the proposed design but not less than one-sixteenth inch equals one foot and shall include the following information:

(i) separate fire safety plans (preferably one floor plan per sheet) shall indicate location of fire protection rated walls and partitions, location and fire-resistance rating of each fire damper, and the required means of egress (corridors, stairs, exits, exit passageways);

(I) when a new building is to contain a proposed facility, when an existing building is converted to a facility, or when an addition is made to an existing facility building, plans of each floor and roof shall be provided;

(II) when a portion of a building is remodeled or when a new service is added, only the plan of the floor where the remodeling will take place or new service will be introduced, and the plan of the floor of discharge shall be provided;

(ii) designated smoke compartments with floor areas of each compartment, location and fire-resistance rating (one or two-hour) of each smoke partition, location, type and fire-resistance rating of each smoke damper;

(iii) location of all required fire alarm devices, including all fire alarm control panels, manual pull stations, audible and visual fire alarm signaling devices, smoke detectors (ceiling and duct-mounted), fire alarm annunciators, fire alarm transmission devices, fire sprinkler flow switches and control valve supervisory switches on each of the floor plans; and

(iv) areas protected with fire sprinkler systems (pendant, sidewall or upright, normal or quick response, and temperature rating shall be indicated), stand pipe system risers and sizes with valves and inside and outside fire department connections, fire sprinkler risers and sizes, location and type of portable fire extinguishers.

(C) Equipment drawings shall include the following:

(i) all equipment necessary for the operation of the facility as planned. The design shall indicate provisions for the installation of large and special items of equipment and for service accessibility;

(ii) fixed equipment (equipment which is permanently affixed to the building or which shall be permanently connected to a service distribution system designed and installed during construction for the specific use of the equipment). The term fixed equipment includes items such as laundry extractors, communication systems, and built-in casework (cabinets);

(iii) movable equipment (equipment not described in clause (ii) of this subparagraph as fixed). The term moveable equipment includes wheeled equipment, plug-in type monitoring equipment, and relocatable items; and

(iv) equipment which is not included in the construction contract but which requires mechanical or electrical service connections or construction modifications. The equipment described in this clause shall be identified on the drawings to ensure its coordination with the architectural, mechanical, and electrical phases of construction.

(D) Structural drawings shall include:

- (i) plans for foundations, floors, roofs, and all intermediate levels;
- (ii) a complete design with sizes, sections, and the relative location of the various members;
- (iii) a schedule of beams, girders, and columns;
- (iv) dimensioned floor levels, column centers, and offsets;
- (v) details of all special connections, assemblies, and expansion joints; and
- (vi) special openings and pipe sleeves dimensioned or otherwise noted for easy reference.

(E) Mechanical drawings shall include:

- (i) complete ventilation systems (supply, return, exhaust), all fire and smoke partitions, locations of all dampers, registers, and grilles, air volume flow at each device, and identification of all spaces (e.g., corridor, patient room);
- (ii) boilers, chillers, heating and cooling piping systems (steam piping, hot water, chilled water), and associated pumps;
- (iii) cold and warm water supply systems, water heaters, storage tanks, circulating pumps, plumbing fixtures, emergency water storage tank(s) (if provided), and special piping systems such as for deionized water;
- (iv) nonflammable medical gas piping (oxygen, compressed medical air, vacuum systems, nitrous oxide), emergency shutoff valves, pressure gages, alarm modules, gas outlets;
- (v) drain piping systems (waste and soiled piping systems, laboratory drain systems, roof drain systems);

(vi) fire protection piping systems (sprinkler piping systems, fire standpipe systems, water or chemical extinguisher piping system for cooking equipment);

(vii) piping riser diagrams, equipment schedules, control diagrams or narrative description of controls, filters, and location of all duct-mounted smoke detectors; and

(viii) laboratory exhaust and safety cabinets.

(F) Electrical drawings shall include:

(i) electrical service entrance with service switches, service feeders to the public service feeders, and characteristics of the light and power current including transformers and their connections;

(ii) location of all normal electrical system and essential electrical system conduits, wiring, receptacles, light fixtures, switches and equipment which require permanent electrical connections, on plans of each building level:

(I) light fixtures marked distinctly to indicate connection to critical or life safety branch circuits or to normal lighting circuits; and

(II) outlets marked distinctly to indicate connection to critical, life safety, or normal power circuits;

(iii) telephone and communication, fixed computers, terminals, connections, outlets, and equipment;

(iv) nurses calling system showing all stations, signals, and annunciators on the plans;

(v) in addition to electrical plans, single line diagrams prepared for:

(I) complete electrical system consisting of the normal electrical system and the essential electrical system including the on-site generator(s), transfer switch(es), emergency system, panels, subpanels, transformers, conduit, wire sizes, main switchboard, power panels, light panels, and equipment for additions to existing buildings, proposed new facilities, and remodeled portions of existing facilities. Feeder and conduit sizes shall be shown with schedule of feeder breakers or switches;

(II) complete nurses calling system with all stations, signals, annunciators, etc. with room number noted by each device and indicating the type of system (nurses emergency calling system, or staff emergency assistance calling system);

(III) a single line diagram of the complete fire alarm system showing all control panels, signaling and detection devices, and the room number where each device is located; and

(vi) schedules of all panels indicating connection to emergency system or normal system, and connected load at each panel.

(3) Any changes to the final construction documents which affect or change the function, design, or designated use of an area shall be submitted to the department for approval prior to authorization of the modifications.

(g) Special submittals.

(1) Self-certification.

(A) In an effort to shorten the plan review and approval process, the facility owner, operator, or representative may request approval of final construction documents under the self-certification review process.

(i) The owner or operator shall submit the items in subsection (b)(1)(A) - (C) of this section and a completed self-certification form, signed by the facility owner or operator, architect of record, and engineer(s) of record attesting that the plans and specifications are based upon and comply with the requirements of this chapter.

(ii) By signing and submitting the self-certification form, the facility owner or operator accepts the following conditions.

(I) The department retains the right to review the final construction documents, conduct inspections of the project, and withdraw its approval.

(II) The facility owner or operator has a continuing obligation to make any changes the department requires to comply with the licensing rules, whether or not physical plant construction or alterations have been completed.

(III) The facility owner or operator is ultimately responsible for compliance with the Act and this chapter.

(B) The department shall review the request for self-certification and notify the facility owner or operator if the request is approved or denied. If denied, the department shall review the final construction documents in the chronological order in which the documents were received. Construction shall not begin until the final construction documents have been reviewed and approved.

(2) If a facility owner or operator believes that a proposed project is a minor project, the facility owner or operator shall provide to the department a brief written description

of the proposed project and floor plans of the areas of work. The minor project request shall be mailed or faxed.

(A) If it is determined that the proposed project is a minor project, the department shall notify the facility owner or operator of the approval, and state the number of inspections that shall be required. A minimum of one inspection shall be conducted.

(B) The department shall notify the facility owner or operator that a proposed project is not approved as a minor project, if the project involves any of the following:

(i) remodeling or alterations which involve alterations to load bearing members or partitions;

(ii) a change in functional operation;

(iii) affects fire safety (e.g., modifications to the fire, smoke, and corridor walls);

(iv) adds services for which the facility is not currently licensed;
and

(v) significantly changes the mechanical, electrical, plumbing, or fire protection.

(C) The facility owner or operator shall submit final construction documents in accordance with subsection (f) of this section if the department determines the project is not a minor project.

(3) Fire sprinkler systems.

(A) When the sole purpose of a project is installation of a sprinkler system, whether a partial or complete system, the facility owner or operator shall submit to the department for approval the items in subsection (b)(1)(A) - (C) of this section and sprinkler documents.

(B) Fire sprinkler systems shall comply with the requirements of National Fire Protection Association 13, Standard for the Installation of Sprinkler Systems, 2002 Edition (NFPA 13), and shall be designed or reviewed by an engineer who is registered by the Texas Board of Professional Engineers in fire protection specialty or is experienced in hydraulic design and fire sprinkler system installation. A short resume shall be submitted if registration is not in fire protection specialty.

(i) Fire sprinkler working plans, complete hydraulic calculations and water supply information shall be prepared in accordance with NFPA 13, §§14.1, 14.2 and 14.3, for new fire sprinkler systems, alterations of and additions to existing ones.

(ii) One set of fire sprinkler working plans, calculations, and water supply information shall be forwarded to the department together with the professional engineer's (P.E. licensed in the State of Texas) certification letter stating that the sprinkler system design complies with the requirements of NFPA 13. Certification of the fire sprinkler system shall be submitted prior to system installation.

(iii) Upon completion of the fire sprinkler system installation and any required corrections, written certification by the engineer, stating that the fire sprinkler system is installed in accordance with NFPA 13 requirements, shall be submitted prior to or with the written request for the final construction inspection of the project.

(h) Retention of drawings, manuals, and design data.

(1) Upon occupancy of the building or portion thereof, the owner shall retain as part of the facility's permanent records, a complete set of legible architectural plans of each building level, fire safety plans as described in subsection (f)(2)(B) of this section for each floor reflecting fire safety requirements, and all single line diagrams described in subsection (f)(2)(F)(v) of this section, drawings for fixed equipment, and mechanical and electrical systems, as installed or built.

(2) Upon completion of the contract, the owner shall retain as part of the facility's permanent records a complete set of manufacturers' operating, maintenance, and preventive maintenance instructions; parts lists; and procurement information with numbers and a description for each piece of equipment. Facility staff shall also be provided with instructions on how to properly operate systems and equipment. Required information shall include energy ratings as needed for future conservation calculations.

(3) The owner shall retain in the facility's permanent records complete design data for the facility. This shall include structural design loadings; summary of heat loss assumption and calculations; estimated water consumption; medical gas outlet listing; list of applicable codes; and electric power requirements of installed equipment. All such data shall be supplied to facilitate future alterations, additions, and changes, including, but not limited to, energy audits and retrofit for energy conservation.

§131.147. Construction, Inspection, and Approval of Project.

(a) Construction.

(1) Construction, other than minor alterations, shall not commence until the final plan review deficiencies have been satisfactorily resolved, the appropriate licensing fee has been paid, and the department has issued a letter granting approval to begin construction. Such authorization does not constitute release from the requirements contained in this chapter. If the construction takes place in or near occupied areas, adequate provision shall be made for the safety and comfort of occupants.

(2) The architect of record or the facility owner or operator shall provide written notification to the department when construction will commence. The department shall be notified in writing of any change in the completion schedules.

(3) Construction shall be completed in compliance with the construction documents including all addenda or modifications approved for the project.

(b) All facilities, including those which maintain certification under Title XVIII of the Social Security Act (42 United States Code, §§1395 et seq.), are subject to construction inspections.

(1) A minimum of two construction inspections of the project is generally required for the purpose of verifying compliance with Subchapters F and G of this chapter (relating to Fire Prevention and Safety Requirements, and Physical Plant and Construction Requirements, respectively) and the approved plans and specifications. The final plan approval letter shall inform the architect of record and the owner as to the minimum number of inspections required for the project.

(2) The architect of record or the facility owner or operator shall request an inspection by submitting, at least three weeks in advance of the requested inspection date, an application for inspection for each intermediate inspection, final inspection, and re-inspection requested. Inspection requests by contractors shall not be honored.

(A) The architect of record or the facility owner or operator shall request an intermediate construction inspection to occur at approximately 80% completion. All major work above the ceiling shall be completed at the time of the intermediate inspection; however, ceilings shall not be installed.

(B) The architect of record or the facility owner or operator shall request a final construction inspection at 100% completion. One hundred percent completion means that the project is completed to the extent that all equipment is operating in accordance with specifications, all necessary furnishings are in place, and patients could be admitted and treated in all areas of the project.

(3) Depending upon the number and nature of the deficiencies cited during the final inspection, the inspector may require that a re-inspection be conducted to confirm correction of all deficiencies cited. The inspector may also require a re-inspection, if he determines that the project was not sufficiently complete to warrant a final inspection. The request for reinspection shall be submitted in accordance with paragraph (2) of this subsection.

(c) Patients and staff shall not occupy a new structure or remodeled or renovated space until approval has been received from the local building and fire authorities and the department.

(1) The facility owner or operator shall submit the following documents to the department before the project will be approved:

(A) written approval of the project by the fire authority;

(B) a certificate of occupancy for the project issued by the local building authority;

(C) a copy of a letter or certification from a professional engineer (P.E.) licensed in the State of Texas indicating the fire sprinkler working plans, hydraulic calculation, the testing, and field inspection of the installation of the new or modified sprinkler system is in compliance with the requirements of NFPA 13, Standard for the Installation of Sprinkler Systems, 2002 Edition, if applicable. A copy of a letter or certification of changes in existing fire sprinkler system is not required, when relocation of not more than twenty sprinkler heads and hydraulic calculation is not involved;

(D) fire alarm system certification (form FML-009A of the State Fire Marshal's Office), if applicable;

(E) a copy of the test and a letter from the electrical contractor certifying that the electrical system was tested and complies with the standards of NFPA 99, Health Care Facilities, 2002 Edition, §4.3.2.2.8 (Special Grounding) and §4.3.3.1 (Grounding System Testing), if applicable to the project;

(F) a copy of documentation indicating the flame spread rating and the smoke development rating of any wall covering installed in this project. A signed letter or statement corroborating the installation of the product in the project shall be provided;

(G) a copy of documentation indicating that draperies, curtains (including cubicle curtains), and other similar loosely hanging furnishings and decorations are flame-resistant as demonstrated by passing both the small and large-scale tests of NFPA 701, Standard Methods of Fire Tests for Flame-Resistant Textiles and Films, 1999 Edition, as required by NFPA 101, §20-7.5, and a signed letter or statement corroborating the installation of the product in the project;

(H) a written plan of correction signed by the facility owner or operator for any deficiencies noted during the final inspection; and

(I) any other documentation or information required or requested due to the type of the project.

(2) Architectural approval.

(A) If, during the final inspection, the inspector finds only a few minor deficiencies that do not jeopardize patient health, safety and welfare, the inspector may grant architectural approval contingent upon the documents listed in paragraph (1)(A) - (D) of this subsection being provided to and approved by the inspector at the time of the final inspection.

(B) Architectural approval allows the facility owner or operator to proceed with licensing. Patients may not be admitted nor patient services provided until a license or modified license has been issued to the facility by the department. However, the facility owner or operator shall submit the documents required in paragraph (1)(E) - (I) of this subsection before the project receives final approval.

(3) Upon its receipt and acceptance of the documents required in paragraph (1) of this subsection and receipt of an acceptable Plan of Correction of the final inspection report, the department shall issue written final approval of the project.

§131.148. Tables.

(a) Table 1. Ventilation requirements for freestanding emergency medical care facilities.

Figure: 25 TAC §131.148(a).

(b) Table 2. Filter efficiencies for central ventilation and air conditioning systems.

Figure: 25 TAC §131.148(b).

(c) Table 3. Medical gas and vacuum systems. Stations outlets for oxygen, vacuum, and medical air systems.

Figure: 25 TAC §131.148(c).

(d) Table 4. Flame spread and smoke production limitations for interior finishes.

Figure: 25 TAC §131.148(d).

(e) Table 5. Multiple bed room configurations.

Figure: 25 TAC §131.148(e).

TABLE 1
VENTILATION REQUIREMENTS FOR FREESTANDING EMERGENCY MEDICAL CARE
FACILITIES ¹

| Area Designation | Air movement relationship to adjacent areas ² | Minimum air changes of outdoor air per hour ³ | Minimum total air changes per hour ⁴ | All air exhausted directly to outdoors ⁵ | Recirculated by means of room units ⁶ | Relative humidity ⁷ (%) | Design temperature ⁸ (degrees F) |
|--|--|--|---|---|--|------------------------------------|---|
| Emergency suite waiting | In | 2 | 12 | Yes ¹³ | ---- | ---- | 70-75 |
| Triage | In | 2 | 12 | Yes ¹³ | ---- | ---- | 70-75 |
| Treatment room | Out | 3 | 15 | ---- | No | 30-60 | 70-75 |
| Trauma room | Out | 3 | 15 | ---- | No | 30-60 | 70-75 |
| Examination room | Out | 2 | 12 | ---- | No | 30-60 | 70-75 |
| Airborne infection isolation room ^{9, 11, 12} | In | 2 | 12 | Yes | No | 30-60 | 70-75 |
| Observation/Holding room | Out | 2 | 6 | ---- | ---- | ---- | 70-75 |
| Clean linen storage | Out | ---- | 2 | ---- | ---- | ---- | ---- |
| Pharmacy | Out | ---- | 4 | ---- | ---- | ---- | 70-75 |
| Medication room | Out | ---- | 4 | ---- | ---- | ---- | 70-75 |
| Laboratory General ¹⁰ | ---- | 2 | 6 | ---- | ---- | ---- | 70-75 |
| Sterilizer equipment room ² | In | ---- | 10 | Yes | No | ---- | ---- |
| Anesthesia gas storage | In | ---- | 8 | Yes | ---- | ---- | ---- |
| Radiology ¹⁰ X-ray – CT (diagnostic and treatment) | Out | 2 | 6 | ---- | ---- | ---- | 75 |
| Darkroom | In | ---- | 10 | Yes | No | ---- | ---- |
| Toilet room | In | ---- | 10 | Yes | ---- | ---- | 70-75 |
| Janitor's closet | In | ---- | 10 | Yes | No | ---- | ---- |
| Decontamination room | In | ---- | 6 | Yes | No | ---- | 68-73 |
| Soiled linen (sorting and storage) | In | ---- | 10 | Yes | No | ---- | ---- |
| Soiled workroom or soil holding | In | ---- | 10 | Yes | No | ---- | ---- |
| Clean workroom or clean holding | Out | ---- | 4 | ---- | ---- | ---- | ---- |
| Sterile Supply/Storage | Out | ---- | 4 | ---- | ---- | 70 Max | ---- |
| Equipment storage | ---- | ---- | 2 | ---- | ---- | ---- | ---- |
| Administrative and support service | ---- | ---- | 2 | ---- | ---- | 30 Min | 68-73 |

Notes applicable to Table 1:
“Ventilation Requirements for Freestanding Emergency Medical Care Facilities.”

¹ The ventilation rates in this table cover ventilation for comfort, as well as for asepsis and odor control in areas of acute care that directly affect patient care and are determined based on health care facilities being predominantly "No Smoking" facilities. Where smoking may be allowed, ventilation rates will need adjustment. Areas where specific ventilation rates are not given in the table shall be ventilated in accordance with American Society of Heating Refrigeration and Air-Conditioning Engineers (ASHRAE) Standard 62.1, 2004 edition, Ventilation for Acceptable Indoor Air Quality, and American Society of Heating Refrigeration and Air-Conditioning Engineers, Handbook of Applications, 2003 edition. Specialized patient care areas, including organ transplant units, burn units, specialty procedure rooms, etc. shall have additional ventilation provisions for air quality control as may be appropriate. Occupational Safety and Health Administration (OSHA) standards and/or National Institute for Occupational Safety and Health (NIOSH) criteria require special ventilation requirements or employee health and safety within health care facilities.

² Design of the ventilation system shall provide air movement which is generally from clean to less clean areas. If any form of variable air volume or load shedding system is used for energy conservation, it must not compromise the corridor-to-room pressure balancing relationships or the minimum air changes required by the table. Except where specifically permitted by exit corridor plenum provisions of NFPA 90A, 2002 edition, the volume of infiltration or exfiltration shall be the volume necessary to maintain a minimum of 0.01 inch water gauge.

³ To satisfy exhaust needs, replacement air from the outside is necessary. Table 1 does not attempt to describe specific amounts of outside air to be supplied to individual spaces except for certain areas such as those listed. Distribution of the outside air, added to the system to balance required exhaust, shall be as required by good engineering practice. Minimum outside air quantities shall remain constant while the system is in operation. In variable volume systems, the minimum outside air setting on the air handling unit shall be calculated using the ASHRAE Standard 62.1, 2004 edition.

⁴ Number of air changes may be reduced when the room is unoccupied if provisions are made to ensure that the number of air changes indicated is reestablished any time the space is being utilized. Adjustments shall include provisions so that the direction of air movement shall remain the same when the number of air changes is reduced. Areas not indicated as having continuous directional control may have ventilation systems shut down when space is unoccupied and ventilation is not otherwise needed, if the maximum infiltration or exfiltration permitted in Note 2 is not exceeded and if adjacent pressure balancing relationships are not compromised. Air quantity calculations must account for filter loading such that the indicated

Notes applicable to Table 1:
“Ventilation Requirements for Freestanding Emergency Medical Care Facilities.”
(Continued)

air change rates are provided up until the time of filter change-out. The minimum total air change requirements shall be based on the supply air quantity in positive pressure rooms and the exhaust air quantity in negative pressure rooms. Air change requirements indicated are minimum values. Higher values shall be used when required to maintain indicated room conditions (temperature and humidity, based on the cooling load of the space: lights, equipment, people, exterior walls and windows, etc.).

⁵ Air from areas with contamination and/or odor problems shall be exhausted to the outside and not recirculated to other areas. Note that individual circumstances may require special consideration for air exhaust to the outside.

⁶ Recirculating room heating, ventilating, and air conditioning (HVAC) units refers to those local units that are used primarily for heating and cooling of air, and not disinfection of air. Because of cleaning difficulty and potential for buildup of contamination, recirculating room units shall not be used in areas marked "No." However, for airborne infection control, air may be recirculated within individual isolation rooms if filters with a maximum efficiency rating value of 17 or higher are used. The maximum efficiency rating value (MERV) is a standard of ASHRAE, Standard 52.2, 1999 edition. Isolation rooms may be ventilated by reheat induction units in which only the primary air supplied from a central system passes through the reheat unit. Gravity-type heating or cooling units such as radiators or convectors shall not be used in trauma rooms and other special care areas. Recirculating devices with 99.97% efficiency filters may have potential uses in existing facilities as interim, supplemental environmental controls to meet requirements for the control of airborne infectious agents. Limitations in design must be recognized. The design of either portable or fixed systems should prevent stagnation and short circuiting of airflow. The supply and exhaust locations should direct clean air to areas where health care workers are likely to work, across the infectious source, and then to the exhaust, so the health care worker is not in a position between the infectious source and the exhaust location. The design of such systems should also allow for easy access for scheduled preventive maintenance and cleaning.

⁷ The ranges listed are the minimum and maximum limits where control is specifically needed. The maximum and minimum limits are not intended to be independent of a space's associated temperature. The relative humidity is expected to be at the lower end of the range when the temperature is at the higher end, and vice versa.

Notes applicable to Table 1:
“Ventilation Requirements for Freestanding Emergency Medical Care Facilities.”
(Continued)

⁸ Where temperature ranges are indicated, the systems shall be capable of maintaining the rooms at any point within the range. A single figure indicates a heating or cooling capacity of at least the indicated temperature. This is usually applicable when patients may be undressed and require a warmer environment. Additional heating may be required in these areas to maintain temperature range. Nothing in these rules shall be construed as precluding the use of temperatures lower than those noted when the patients' comfort and medical conditions make lower temperatures desirable. Unoccupied areas such as storage rooms shall have temperatures appropriate for the function intended.

⁹ The infectious disease isolation room described here is to be used for isolating the airborne spread of infectious diseases, such as measles, varicella, or tuberculosis. The design of airborne infection isolation rooms should include the provision for normal patient care during periods not requiring isolation precautions. Supplemental recirculating devices may be used in the patient room, to increase the equivalent room air exchanges; however, such recirculating devices do not provide the outside air requirements. Air may be recirculated within individual isolation rooms if filters with a MERV rating of 17 or higher are used. Exhaust systems for infectious isolation rooms shall exhaust no other areas or rooms. Rooms with reversible airflow provisions for the purpose of switching between protective environment and AII functions are not acceptable.

¹⁰ When required, appropriate hoods and exhaust devices for the removal of noxious gases or chemical vapors shall be provided. Laboratory hoods shall meet the following general standards.

1. Have an average face velocity of at least 75 feet per minute.
2. Be connected to an exhaust system to the outside which is separate from the building exhaust system.
3. Have an exhaust fan located at the discharge end of the system.
4. Have an exhaust duct system of noncombustible corrosion-resistant material as needed to meet the planned usage of the hood.

Laboratory hoods shall meet the following special standards:

1. Fume hoods and their associated equipment in the air stream, intended for use with perchloric acid and other strong oxidants, shall be constructed of stainless steel or other material consistent with special exposures, and be provided with a water wash and drain system to permit periodic flushing of duct and hood. Electrical equipment intended for

installation within the duct shall be designed and constructed to resist penetration by water. Lubricants and seals shall not contain organic materials. When perchloric acid

Figure: 25 TAC §131.148(a)

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Notes applicable to Table 1:

“Ventilation Requirements for Freestanding Emergency Medical Care Facilities.”

(Continued)

or other strong oxidants are only transferred from one container to another, standard laboratory fume hoods and associated equipment may be used in lieu of stainless steel construction. Fume hood intended for use with radioactive isotopes shall be constructed of stainless steel or other material suitable for the particular exposure and shall comply with National Fire Protection Association 801, Facilities for Handling Radioactive Materials, 2003 edition (NFPA 801).

NOTE: RADIOACTIVE ISOTOPES USED FOR INJECTIONS, ETC. WITHOUT PROBABILITY OF AIRBORNE PARTICULATES OR GASES MAY BE PROCESSED IN A CLEAN WORKBENCH-TYPE HOOD WHERE ACCEPTABLE TO THE NUCLEAR REGULATORY COMMISSION.

2. In new installations and construction or major renovation work, each hood used to process infectious or radioactive materials shall have a minimum face velocity of 150 feet per minute with suitable static pressure operated dampers and alarms to alert staff of fan shutdown. Each hood shall have filters with an efficiency of 99.97% (based on the dioctyl-phtalate test method) in the exhaust stream, and be designed and equipped to permit the removal, disposal, and replacement of contaminated filters. Filters shall be as close to the hood as practical to minimize duct contamination. Hoods that process radioactive materials shall meet the requirements of the Nuclear Regulatory Agency.

¹¹ Differential pressure shall be a minimum of 0.01 inch water gauge. If alarms are installed, allowances shall be made to prevent nuisance alarms of monitoring devices.

¹² Air movement shall be IN to the isolation anteroom from the adjacent corridor and OUT from the anteroom to the adjacent isolation room.

¹³ In a ventilation system that recirculates air, filters with a MERV rating of 17 or higher can be used in lieu of exhausting the air from these spaces to the outside. In this application, the return air shall be passed through the HEPA filters before it is introduced into any other space.

**TABLE 2
 FILTER EFFICIENCIES FOR CENTRAL VENTILATION
 AND AIR CONDITIONING SYSTEMS**

| Area Designation | Number of Filter Beds | Filter Bed No. 1 (Percent, MERV*) | Filter Bed No. 2 (Percent, MERV*) |
|---|-----------------------|--------------------------------------|--------------------------------------|
| General procedure patient care areas, treatment, diagnostic, imaging, and those areas providing direct service or clean supplies such as sterile and clean processing, and related areas. | 2 | 30, 8 | 90, 14 |
| Laboratories | 1 | 80, 13 | ---- |
| Administrative, bulk storage, soiled holding areas, and laundries | 1 | 30, 8 | ---- |

* MERV – Minimum efficiency rating value (American Society of Heating Refrigeration and Air-Conditioning Engineers (ASHRAE) Standard 52.2, 1999 edition.

NOTES:

- Additional roughing or prefilters should be considered to reduce maintenance required for filters with efficiency higher than 75%.
-
- The filtration efficiency ratings are based on ASHRAE Standard 52.1, 1992 edition.

**TABLE 3
MEDICAL GAS and VACUUM SYSTEMS
STATION OUTLETS FOR OXYGEN, VACUUM, AND MEDICAL AIR SYSTEMS**

| Location | Station Outlets | |
|---|--------------------------|--------------------------|
| | Oxygen see notes 1, 2 | Vacuum see notes 1, 2 |
| Trauma/cardiac rooms | 2/bed | 3/bed |
| Treatment rooms | 1/bed | 1/bed |
| Exam rooms | 1/bed | 1/bed |
| Holding/observation area/room | 1/bed | 1/bed |
| Triage area | 1/bed | 1/bed |
| Isolation treatment rooms – infectious (medical) | 1/bed | 1/bed |
| Orthopedic and cast room | 1/room | 1/room |
| Decontamination room (definitive emergency care) | 1/room | 1/room |
| Decontamination room (part of sterile processing) | --- | 1 |
| | | |

Notes:

1. Prohibited uses of medical gases include fueling torches, blowing down or drying any equipment such as lab equipment, endoscopy or other scopes, or any other purposes. Also prohibited is using the oxygen or medical air to raise, lower, or otherwise operate booms or other devices in operating rooms (ORs) or other areas.
2. Central supply systems for oxygen, medical air, nitrous oxide, carbon dioxide, nitrogen and all other medical gases shall not be piped to, or used for, any other purpose except patient care applications.

TABLE 4
FLAME SPREAD AND SMOKE PRODUCTION LIMITATIONS
FOR INTERIOR FINISHES

| Areas | Location | Flame Spread Rating | Smoke Development Rating |
|---------------------------------|--|----------------------------------|--------------------------------------|
| Walls and Ceilings ¹ | Exit Access, Storage Rooms, and Areas of Unusual Fire Hazard | Class A ² NFPA 255 | 450 or less NFPA 258 ³ |
| | All other Areas | Class B ² NFPA 255 | 450 or less NFPA 258 ³ |
| Floors ⁴ | | No requirements | No requirements |

¹ Textile materials having a napped, tufted, looped, woven, nonwoven, or similar surface shall not be applied to walls or ceilings unless such materials have a Class A rating and are installed in rooms or areas protected by an approved automatic sprinkler system. Cellular or foamed plastic materials shall not be used as interior wall and ceiling finishes.

² Products required to be tested in accordance with National Fire Protection Association 255, Standard Method of Test of Surface Burning Characteristics of Building Materials, 2000 Edition, shall be Class A (flame spread 0 - 25) or Class B (flame spread 26 - 75).

³ Smoke development rating, an average of flaming and nonflaming values as determined by National Fire Protection Association 258, Standard Research Test Method for Determining Smoke Generation of Solid Materials, 2001 Edition.

⁴ See §131.143(b)(2)(D) of this title for requirements relative to carpeting in areas that may be subject to use by handicapped individuals. Such areas include offices and waiting spaces as well as corridors that might be used by handicapped employees, visitors, or staff.

TABLE 5
MULTIPLE BED ROOM CONFIGURATIONS

