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Katherine McLane
512-538-4606
kmclane@themach1group.com

As Hospitals Overflow, Texas Freestanding Emergency Centers Ready to Fill Gaps in Healthcare

AUSTIN - Texas Association of Freestanding Emergency Centers (TAFEC) filed a formal [petition for rulemaking](#) requesting Texas Health and Human Services Commission (HHSC) and Texas Department of State Health Services (DSHS) adopt a rule that allows freestanding emergency centers (FECs) to offer non-emergency care in addition to emergency care under their state licensure.

“Freestanding Emergency Centers are an under-utilized resource in the Texas pandemic response plan. They can help fill the gaps where critical access to care is needed most,” said Kevin Herrington, President of the Board of Directors of TAFEC.

The petition is asking HHSC to clarify whether FECs can offer non-emergent care so long as freestanding emergency centers clearly delineate between emergency medical care and non-emergency care. As it stands, due to HHSC interpretation of the regulations, FECs are prohibited from providing outpatient services, even though they possess all the medical staff, resources, lab, radiology staff, and equipment required to do so.

“Texas Health and Safety Code restricts FECs to only provide emergency care and not allowing outpatient ancillary services,” said Herrington. “In fact, FECs are perhaps overqualified to provide non-emergency outpatient care since they’re licensed to provide healthcare [24/7](#), seven days a week.”

TAFEC filed the petition after HHSC responded to a July written request from TAFEC seeking clarification and a waiver to offer non-emergent or out-patient care for the duration of the public health crisis. Despite the demands the COVID-19 pandemic has placed on the state’s healthcare system, HHSC denied the request, saying Texas Government Code does not authorize HHSC to suspend or to amend a statute.

A petition for rulemaking is a formal request to a Texas State Agency within the Administrative Procedure Act in Texas Government Code §2001.001 et. seq. The petition is available to any interested person requesting the adoption of a rule by a state agency. The state agency has up to 60 days to respond to the petition by either denying the request or initiating a rulemaking proceeding.

“There are more COVID-19 cases in Texas than any other state. Texans need policy solutions that will create more resources for Texans, not fewer,” said Herrington. “Allowing FECs to offer out-patient services would increase critical access to care around the state at a time when every resource is needed.”

State Representative James White has filed [House Bill 472](#), which would allow freestanding emergency medical care facilities the ability to offer out-patient acute care services. This bill is similar to one White filed during the 86th Legislative session that was voted unanimously out of the House Public Health Committee but never made it out of the Calendars Committee. If House Bill 1278 had been signed into law, FECs would have been able to offer out-patient acute care during the pandemic.

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[The Texas Association of Freestanding Emergency Centers](#) (TAFEC) is a member-based association representing freestanding emergency centers in Texas. The Association works with state leaders to ensure the fair regulation and growth of this industry, as well as raising public awareness of the industry and promoting an overall understanding of the unique benefits of freestanding emergency centers.