



TEXAS DEPARTMENT OF STATE HEALTH SERVICES

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COMMISSIONER

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Variance Request Process for a licensed Substance Use Disorder Facility

Purpose

To establish a process for a substance use disorder facility to request and submit a formal written request for a variance or exception from complying with a provision of a rule found at Title 25, Texas Administrative Code, Chapter 448, Substance Abuse Standards of Care Rules. A variance cannot be granted for a statutory requirement. Each variance request is given full consideration by the department and will be issued a formal response either granting or denying the variance request from the Assistant Commissioner of the Regulatory Services Division.

Procedures and Criteria for Issuance of a Variance

1. **Request for a variance-** The facility must address the following criteria and provide documentation as necessary to support its position:
 - a. Specify the rule at Title 25, Texas Administrative Code, Chapter 448 for which a variance is being requested.
 - b. To be eligible for a variance, a facility shall show an alternative method is used to meet the intent of the rule.
 - c. Explain how the variance will not jeopardize the health, safety, or welfare of clients or compromise substance abuse services.

2. **Submitting a variance request-** In addition to the criteria above, please include:
 - a. Facility Name
 - b. Site address
 - c. License Number
 - d. Date of request
 - e. Contact person- name, email, phone, and mailing address if different than site address.

Please submit requests to Lisa Peers, R.N., Nurse Consultant, at lisa.peers@dshs.state.tx.us or fax to (512) 834-4514, or mail,

DSHS, Regulatory Licensing Unit
Attention: Lisa Peers, R.N., Nurse Consultant
P.O. Box 149347, Mail Code 2835
Austin, Texas 78714

3. **Review process** - The variance request and supporting documentation is given full consideration by the department through the following process.
 - a. The Facility Licensing Group Nurse Consultant reviews the request for compliance with the licensing requirements and ensures that the facility has submitted all required information. Additional information may be requested from the facility to support the variance.
 - b. The Regulatory Division Cross-Functional Health Facility Team considers the variance request and supporting documentation. The team reviews all evidence and documentation submitted by the facility and considers each of the three criteria addressed by the facility in the variance request (see 1. a-c. above).
 - c. The Cross-Functional Health Facility Team reaches a consensus decision to deny or approve the variance request after giving due consideration to historical data such as previous decisions the department has made on similar requests. The Facility Licensing Group Nurse Consultant prepares a memorandum for review by the Assistant Commissioner of the Regulatory Services Division, which specifies the regulatory and/or public policy reasons for the recommendation.
4. **Final Review and Consideration** – The final authority for granting or denying variances has been delegated from the Commissioner of the Department of State Health Services to the Assistant Commissioner of the Division for Regulatory Services.
 - a. The Assistant Commissioner of the Regulatory Services Division gives full consideration to the variance request and the supporting documentation provided by the facility and to the consensus decision of the Cross- Functional Health Facility Team. The Assistant Commissioner of the Division for Regulatory Services must provide final approval to grant or deny the variance.
 - b. The department will notify the facility that the requested variance is either approved or denied. The grounds and terms of the variance shall be recorded in writing. The facility must maintain the variance in its permanent records. It is the facility’s responsibility to request an extension of a temporary variance.
 - c. Variances are authorized at Title 25, Texas Administrative Code, Section 448.402.