

# Guidance to Operate a Tele-emergency Department for Eligible Rural Hospitals

March 2022

In the interest of providing sustainable, high-quality care to Pennsylvania residents, and pursuant to its authority under 28 Pa. Code §§ 51.31-51.33, the Pennsylvania Department of Health (Department) will make available a structured exception request for eligible low-volume rural hospitals to operate a tele-emergency department (tele-ED). As used throughout this document, “tele-ED” shall refer to the operation of a tele-ED staffed by Advanced Practice Providers (APP) 24 hours per day/7 days per week (24/7) with a physician available at all times through telecommunications, but not physically present in the emergency department.

## **Background**

The Department recognizes that staffing emergency departments full-time with board-certified physicians may be a substantial financial challenge for rural hospitals.<sup>1</sup> Nonetheless, ensuring that rural hospitals can continue to operate emergency departments is crucial for the health of people living in rural Pennsylvania. In 2013, the Centers for Medicare & Medicaid Services (CMS) [clarified](#) that its regulations allow Critical Access Hospitals (CAHs) to operate “tele-EDs,” that is CAHs can staff emergency departments with APPs on-site with a physician available through telecommunications 24/7. However, the Department’s regulations currently require on-site physician coverage in emergency departments, and an exception to this regulatory requirement had not been sought or granted previously.

The use of telehealth in emergency departments has been studied for over two decades. Tele-EDs have shown to be a cost-effective alternative for low-volume, rural hospital to continue providing access to local emergency care and help to address health disparities that may exist in rural communities.<sup>2</sup> In a study of tele-EDs in the upper Midwest, participant hospitals reported that tele-ED improves clinical quality, expands the care team, increases resources during critical events, shortens time to care, improves care coordination, promotes patient-centered care, improves the recruitment of family physicians, and stabilizes the rural hospital patient base.<sup>3</sup> Use of tele-EDs has resulted also in savings of hundreds of thousands of dollars for emergency departments in rural areas across the country.<sup>4</sup>

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<sup>1</sup> Ward, Marcia M., et al. “Use Of Telemedicine For ED Physician Coverage In Critical Access Hospitals Increased After CMS Policy Clarification.” *Health Affairs* (2018), vol. 37 no. 12. doi: 10.1377/hlthaff.2018.05103

<sup>2</sup> Dunc Williams Jr, et al. “Do Hospitals Providing Telehealth in Emergency Departments Have Lower Emergency Department Costs?” *Telemedicine and e-Health* (2021), vol. 27, no 9. 1011. <http://doi.org/10.1089/tmj.2020.0349>

<sup>3</sup> Mueller KJ, et al. “Lessons from tele-emergency: Improving care quality and health outcomes by expanding support for rural care systems.” *Health Affairs* (2014), vol. 33 , no. 2. <http://doi.org/10.1377/hlthaff.2013.1016> .

<sup>4</sup> Natafagi, Nabil, et al. “Using tele-emergency to avoid patient transfers in rural emergency departments: An assessment of costs and benefits.” *Journal of Telemedicine and Telecare*, vol. 24, no. 3, Apr. 2018, pp. 193-201, doi: 10.1177/1357633X17696585.

In light of increased sustainability of tele-EDs in rural hospitals across the country, the Department is making available a structured exception request for eligible rural hospitals to operate a tele-ED in accordance with this guidance.

### **Tele-ED Eligibility Criteria**

The structured exception request to operate a tele-ED shall be available to eligible rural hospitals in Pennsylvania. For purposes of this guidance:

- An “eligible rural hospital” is a hospital located in a rural area with 46.0 or less average daily emergency department visits over a two-year period.
- A “rural area” is any area not included in an “urbanized area” by the [U.S. Census Bureau](#) based on the 2010 decennial census.
- The U.S. Census Bureau’s [mapping tool](#) can be used to determine eligibility. All areas that are not in an urbanized area (blue areas) are eligible locations for a tele-ED.

Areas designated as an “urban cluster” constitute a rural area for purposes of this guidance. The emergency department volume standard was developed using the highest average daily emergency department visits of the CAHs operating in the Commonwealth, since tele-EDs in CAHs have been determined by CMS to be an appropriate minimum standard for emergency services and studies have shown their efficacy in those and similar rural hospital settings in other jurisdictions. Of the studies on tele-ED in rural hospitals reviewed by the Department when developing this guidance, a substantial majority of those rural hospitals were CAHs. The average daily emergency department visits were calculated using the emergency services capability and utilization data available on the Department’s [website](#) for 2017-2019.

Eligible rural hospitals shall continue to follow the [guidelines](#) published by the Department for all telehealth services, including tele-ED, as well as all relevant federal and state laws and regulations.

### **Structured Exception Request for Eligible Rural Hospitals – 28 Pa. Code § 117.14 (c)**

An eligible rural hospital seeking to utilize the structured exception request to operate a tele-ED must submit an exception request as described [here](#) (see appendix for form and instructions), seeking an exception to **28 Pa. Code § 117.14 (c)**. An approved exception to this regulatory requirement will allow the hospital to staff its ED with Advanced Practice Providers (APPs) with a licensed physician available through telecommunications 24/7.

The exception request must include a narrative, which, at a minimum, includes a brief summary demonstrating the hospital’s ability to meet each of the conditions outlined in the next section, which, in addition to the criteria outlined above, will be examined in determining whether a hospital is eligible for an exception to 28 Pa. Code § 117.14 (c).

### **Mandatory Conditions of an Approved Structured Exception for Eligible Rural Hospitals**

While operating under an approved exception to 28 Pa. Code § 117.14 (c), an eligible rural hospital shall:

- Establish and maintain 24/7/365 connectivity to a full-support telemedicine hub that guarantees immediate access to a board-certified doctor of medicine (MD) or doctor of osteopathic medicine (DO).
  - This shall include the development of a written plan addressing connectivity loss due to a malfunction of equipment, loss of internet connectivity or another incident on either the originating or distant site side.
  - The plan may include an alternative immediate access point to another on-call tele-medicine physician, or an on-site physician who will be present during the outage.
- Establish and implement policies and procedure to address on-call physicians being called on-site to the hospital. The policies and procedures shall ensure an MD or DO is on-call at all times and available to be on-site as needed to meet the needs of patients, but in all instances within 60 minutes if there is not a physician physically on-site in the emergency department. Specifically, the policies and procedures shall address:
  - Escalation protocols to be followed if a patient requests to see a physician. The protocols shall address patients that request to see a physician when it is not medically necessary for them to see a physician, and shall, at a minimum, provide for a telemedicine visit with a physician being made immediately available to the patient. The protocols shall also address patients that request to see a physician in-person when it is not medically necessary and provide for the development of policies and procedures to allow for an in-person visit to be arranged.
  - The on-call physician's obligations when an on-site APP requests the on-site presence of the on-call physician.
  - A back-up plan to address any instances where the on-call physician does not or cannot respond.
- Post in a conspicuous location a statement that physicians are not in the emergency department 24/7, but that the emergency department is operational 24/7 and the hospital will provide access to a physician, as needed and upon request.
- Establish and implement a process that guarantees the hospital's ability to transfer an emergent patient whose care is beyond the capabilities of the on-site APP, even with tele-medicine physician support. The process may not place a burden on the local emergency medical services system and shall be an appropriate transfer<sup>5</sup> in accordance with the Emergency Treatment and Labor Act (EMTALA).

### **Exception Request Approval**

An eligible rural hospital that submits a structured exception request in accordance with this guidance will receive written notice of approval within 30 days of the submission. However, as with any exception, the Department reserves the right to revoke an exception granted under this process for any justifiable reason, including failure to adhere to the mandatory conditions

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<sup>5</sup> 42 U.S.C. § 1395dd (c).

identified in this guidance.<sup>6</sup> Hospitals whose structured exception request is denied or revoked may seek reconsideration in accordance with 28 Pa. Code § 51.34 (relating to revocation of exceptions).

### **Other Information**

Hospitals that do not meet the criteria for the structured tele-ED exception request are still eligible to apply for an exception to any regulation, and those exceptions will be processed under the Department's standard procedure.

Eligible rural hospitals should be aware that the tele-ED model does not meet the requirements for a Medical Command Facility (MCF) per the Emergency Medical Services System Act. Losing MCF status means that EMS providers will require permission from a Medical Command physician before taking a patient to the tele-ED facility.

Questions relating to tele-ED may be directed to the Division of Acute and Ambulatory Care [ra-daac@pa.gov](mailto:ra-daac@pa.gov)

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<sup>6</sup> 28 Pa. Code § 101.14.