

### ***Fort Worth Star-Telegram***

Bars will close and nonessential businesses must reduce capacity after Dallas-Fort Worth area hospitalizations on Thursday met a critical state threshold.

The rollbacks are built into Gov. Greg Abbott's executive order related to business operations, which requires that COVID-19 hospitalizations do not exceed 15% of capacity for seven consecutive days in a trauma service region. After the seven days, bars have to close once again and businesses return to 50% capacity.

The 19-county North Texas region includes Tarrant, Dallas, Denton, Parker and Collin counties. Tarrant County is in the middle of its worst bout with the virus as it reported 1,894 new COVID-19 cases on Thursday, the second-largest single-day case total. The single-day high was 2,112 on Nov. 18.

Tarrant County has reported a total of 105,675 COVID-19 cases, including 864 deaths and an estimated 74,261 recoveries.

The Texas Alcoholic Beverage Commission will inform business and bar owners of the policy change, said commission spokesperson Chris Porter. Porter said officials will also reach out to county officials to notify them of the change.

But Tarrant County Judge Glen Whitley said the county will leave it to the state and cities to enforce the governor's policy. This is in line with the stance the judge has taken in recent weeks as the county continues its fight with COVID-19. Tarrant County Sheriffs can enforce Abbott's order but it is unclear if they will do so.

Whitley has said that he would stay in his lane and let things play out as Abbott's executive order intended to avoid confusing the public.

And as North Texas continues to see record-numbers in COVID-19 hospitalizations, Whitley has felt like local officials have almost no power to act.

Whitley had previously told the Star-Telegram that El Paso County's unsuccessful attempt to impose a two-week lockdown showed the rest of Texas what kind of power local officials truly have as they try to fight the coronavirus. El Paso County Judge Ricardo Samaniego was sued by the state and lost when he ordered a shutdown.

Whitley said he has tried to talk to the governor about what the county could do to battle the surge but has not gotten a response. Tarrant County is in the middle of its worst battle with the virus. The county recently passed 100,000 cases and continuously reported more than 1,000 cases in November. People with COVID-19 occupy 22% of Tarrant County hospital beds, exceeding the peak of 20% in July.

[Abbott's executive order in October](#) allowed businesses to increase capacity to 75% and bars to open, but requires that COVID-19 hospitalizations do not exceed 15% of capacity for seven consecutive days in a trauma service region. After the seven days, bars will be forced to close and businesses would be back at 50% capacity.

Abbott spokesperson Renae Eze maintained the governor's protocols work as long as they are enforced.

“Under the Governor's executive orders, local officials and law enforcement are encouraged and empowered to enforce existing protocols to help mitigate this virus, such as the mask mandate, and occupancy limits under law, as they did before the pandemic hit,” she said in a Friday statement.

Eze said Abbott continues to urge Texans to follow safe practices to reduce the virus' spread.

“We've slowed the spread before, and we will do it again while we await the arrival of vaccines later this month,” she said. “In the meantime, the state is swiftly distributing the new anti-body therapeutic medicine to treat Texans who get COVID-19 and aid in reducing hospitalizations.”

Vinny Taneja, the Tarrant County Public Health Director, said in a statement that the order will reduce the number of places people can gather, thus helping reduce the community spread of COVID-19. This will in turn help reduce the number of people being admitted to hospitals.

Rajesh R. Nandy, associate professor of biostatistics and epidemiology at the University of North Texas HSC School of Public Health, said COVID-19 hospitalizations have dropped since he released a report Nov. 20 saying that Metroplex hospitals could reach capacity in 30 days. He no longer believes hospitals to fill up in North Texas.

Nandy is worried about its capacity at intensive care units. He said North Texas is at about 95% ICU capacity and the more the ICU is filled the less attentive care patients may receive. Nandy is also waiting to see if there will be a Thanksgiving surge that could push capacity over the edge.

“We have to kind of brace for a bumpy ride until like January,” he said.

Asked if North Texas and Tarrant County could be heading to a situation like the one in El Paso County, where makeshift morgues are relying on jail inmates to move bodies and health workers could have to decide who gets care and who doesn't, Nandy said it's possible but usually people react if things are heading toward dire situations.

Nandy also keeps track of retail consumerism. On Black Friday, he said North Texans didn't go out in hoards to get the best deals like they would during any other year. He found it surprising that more people went out shopping the Friday before.

He thinks this means people are reacting to the surge.

Whitley said hospital executives in the area have told him they still have the space and staff to take care of people.

“They’re not screaming that the sky is about to fall,” Whitley said.

Although he’s being told everything is OK, Whitley understands that an increasing number of cases and hospitalizations is a bad sign. But the judge’s main resources are extending the county’s mask mandate and shut down bars. The mask mandate goes through Feb. 28.

The judge hasn’t shut bars down because he believes they would operate as restaurants and get around it. A spokesperson for the Texas Alcoholic Beverage Commission said 142 bars in Tarrant County have operated as restaurants to remain open.

## **A political issue**

Mark Jones, a political science professor at Rice University, said Abbott has played the coronavirus response in a way that he doesn’t have to make too much of the unpopular decisions, such as shutting the economy down.

When the pandemic hit in March, local officials took the first step to shutting things down before he stepped in. Jones believes that if conversations about shutting down start again, Abbott would probably let local officials decide that in a way to protect himself.

Throughout the coronavirus response, Jones believes it’s been Republicans against Democrats. And most Republicans would rather not step on Abbott’s toes.

In Tarrant County, Jones believes Whitley won’t do anything to overstep Abbott or the Republican Party if he wants to go for reelection in 2022. Exceeding Abbott’s order is also not something Southern Methodist University Political Science Professor Cal Jillson expects to see in Tarrant County or North Texas.

“Generally what local leaders, both municipal and county do, is they push right up to the edge of what’s permitted by Abbott’s executive orders and they plead with him to get them expanded authority,” Jillson said. “Generally ... they try not to draw his ire by going beyond what he’s permitted.”

Whitley said he’s received political pressure from Tarrant County Republicans for enacting the mask order, but he hasn’t received pressure from the state.

“The fact that I did that has certainly not caused a great deal of fondness from several members of the party,” Whitley said.

Rick Barnes, the Tarrant County Republican Party chair, said the approval rating for Whitley from grassroots Tarrant County Republicans is low. Barnes said the across the board mask mandate did not bode well for the judge as some Republicans believe it’s not fair to impose the requirement on everyone.

“There’s certainly a lot of concern from folks about mandates,” he said. “Frankly, a lot of people see these as government overreach.”

Looking back on the year, Whitley said he wishes the coronavirus response wasn’t made into a political issue.

“We could have truly focused on the fact that we need to be helping and protecting the folks in our community,” he said.

## **Local control in Texas**

The local control debate is nothing new to Texas.

Jillson pointed to issues like the outlawing of plastic bags at grocery stores and Denton’s fracking ban as past examples where local and state officials have clashed.

“Over the course of the last decade, state officials have been trying to set parameters for local governments and local governments have been resisting,” Jillson said. “The coronavirus has simply amped up that debate.”

Jillson added, “Abbott generally has wanted to run coronavirus policy from the state level, but local officials in Houston, Dallas, San Antonio, El Paso and Tarrant County have all pushed back” asking for flexibility to address the virus on a local level.

In recent weeks, El Paso has been the epicenter of that tension between the state and local governments.

Amid soaring case numbers and hospitalizations, Samaniego opted to take matters into his own hands, going beyond Abbott’s executive order related to business operations and shuttering nonessential businesses.

The move ultimately pitted the county in court against the state — a battle the county lost.

“Every day that the county’s order remains in effect is another day that we can save lives,” [Samaniego said before the final court decision.](#)

State Rep. Chris Turner, D-Grand Prairie, said the size and diversity of Texas doesn’t lend itself to a one-size-fits-all approach to coronavirus response.

“I think that our county judges and mayors, as the chief executives in local jurisdictions, should have the flexibility to make decisions to best protect the public’s health and safety,” Turner said.

Rep. Matt Krause, R-Fort Worth, reiterated the importance of personal responsibility in preventing the virus’ spread.

Krause was among members of the Texas House Freedom Caucus who in April [penned a letter to Abbott](#) asking he scale back statewide coronavirus restrictions to restart economic activity.

“I certainly think there’s a role for government in helping slow the spread or stop the spread, but it has to be targeted, it has to be backed up by hard data, and we’ve got to ensure that we’re balancing those constitutional rights at the same time,” Krause said.