



The Tennessee Open Meetings Act passed by the General Assembly in 1974 requires that meetings of state, city and county government bodies be open to the public and that any such governmental body give adequate public notice of such meeting.

**TENNESSEE DEPARTMENT OF HEALTH  
MEMORANDUM  
AMENDED**

**Date:** January 20, 2015  
**To:** Woody McMillin, Director of Communication and Media Relations  
**From:** Wanda E. Hines, Board Administrator

**Name of Board or Committee:** Board for Licensing Health Care Facilities Board Meeting  
**Date of Meeting:** January 21-22, 2015  
**Time:** 9:00 a.m. CST  
**Place:** Iris Conference Room  
665 Mainstream Drive, First Floor  
Nashville, TN 37243  
**Major Item(s) on Agenda:** See Attached Agenda

Link to Live Video Stream:

<https://web.nowuseeit.tn.gov/Mediasite/Play/7247d0ba8586480fb8a7f874b2a4ff0b1d>

This memo shall be forwarded from individual programs to the Public Information Office on the 15th day of the preceding month. The Public Information Office will prepare the monthly list of meetings within the Department and have ready for distribution to state media by the 28th day of the preceding month.



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**JOHN J. DREYZEHNER, MD, MPH**  
COMMISSIONER

**BILL HASLAM**  
GOVERNOR

*THE MISSION OF THE TENNESSEE DEPARTMENT OF HEALTH IS TO PROTECT, PROMOTE AND IMPROVE  
THE HEALTH AND PROSPERITY OF PEOPLE IN TENNESSEE*

**AMENDED AGENDA**

**BOARD FOR LICENSING HEALTH CARE FACILITIES**

**JANUARY 21-22, 2015**  
**IRIS CONFERENCE ROOM, FIRST FLOOR**  
**9:00 a.m.**

**PLEASE REMEMBER TO SILENCE YOUR ELECTRONIC DEVICES WHEN  
THE BOARD IS IN SESSION**

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1. **WELCOME NEW BOARD MEMBERS:** Kenneth Robertson, M.D. replacing Roy King, M.D., as the Physician of Medicine Representative, Diana Miller, replacing Janice Hill as the Hospital Operated Nursing Home Administrator Representative, Roger Mynatt, replacing Sylvia Burton as the Nursing Home Industry Representative and Janet Williford, replacing Betsy Cummins as the Home Health Agency Administrator Representative.
2. **CALL THE MEETING TO ORDER.**
3. **ESTABLISH A QUORUM.**
4. **APPROVAL OF MINUTES** –September 11, 2013 Board Meeting
5. **REPORTS**
  - A. **EMS REPORT** - Robert Seesholtz
  - B. **OFFICE OF GENERAL COUNSEL REPORT** - Kyonzte' Hughes-Toombs
6. **CONSIDERATION AND RATIFICATION OF LICENSURE APPLICATIONS (CHANGE OF OWNERSHIP (CHOWS) AND INITIALS).**
  - A. **CONSIDERATION.**

**B. RATIFICATION.**

**1. QUALIFYING APPLICATIONS**

**(INITIALS)**

Advocate Healthcare, Arlington-Professional Support Services  
Alexian Village of Tennessee, Signal Mountain-Assisted Care Living Facility  
Ashley's Total Care, Memphis-Home for the Aged  
Atlas Medical, LLC, Knoxville-Home Medical Equipment Facility  
Barnes Healthcare Services, Knoxville-Home Medical Equipment Facility  
Baptist Memorial Rehabilitation, Germantown-Hospital  
Bulow Orthotic and Prosthetic Solutions, Nashville-Home Medical Equipment Facility  
Byram Healthcare Centers, Inc., Germantown-Home Medical Equipment Facility  
Coram CVS/Specialty Infusion Services, Nashville-Home Medical Equipment  
Highrise Medical Supply, LLC, Johnson City-Home Medical Equipment Facility  
KCI USA, Inc., Johnson City-Home Medical Equipment Facility  
MedTek Medical, LLC, Hendersonville-Home Medical Equipment Facility  
Morning Pointe of Chattanooga at Shallowford, Chattanooga-Assisted Care Living Facility  
NHC HealthCare, Kingsport, Kingsport-Nursing Home  
Physical Therapy Services, PA, Elizabethton-Professional Support Services  
Physio Care Inc., White House, Home Medical Equipment Facility  
Sleep Management, LLC, Gallatin-Home Medical Equipment Facility  
The Arbors at the Etheridge House, Union City-Assisted Care Living Facility  
The Bridge at Hickory Woods, Antioch-Assisted Care Living Facility  
The Hearth at Franklin, Franklin-Assisted Care Living Facility  
Universal Medical Equipment, Nashville-Home Medical Equipment Facility

**(CHOWS)**

Azalea Trace Assisted Living, Nashville-Assisted Care Living Facility  
Emeritus at Main Street, Hendersonville-Assisted Care Living Facility  
Emeritus at Memphis, Memphis-Assisted Care Living Facility  
Gardens of Germantown, Germantown-Assisted Care Living Facility  
Hearth Hospice, Chattanooga-Hospice  
Hickory Valley Retirement Center, Chattanooga-Residential Home for the Aged  
Isokinetics, LLC, Bartlett-Home Medical Equipment Facility  
Maple Court, Powell-Assisted Care Living Facility

Park Place Retirement Community, Hendersonville-Assisted Care Living Facility  
Raintree Terrace, Knoxville-Assisted Care Living Facility  
Rehoba Manor, LLC, Memphis-Residential Home for the Aged Facility

7. **RULEMAKING HEARINGS**-Notice of Rulemaking Hearings can be viewed online at: <http://tnsos.org/rules/RulemakingHearings.php>.

- A. 1200-08-01 Standards for Hospitals  
1200-08-01-.08 Building Standards
  
- 1200-08-02 Standards for Prescribed Child Care Centers  
1200-08-02-.07 Building Standards
  
- 1200-08-06 Standards for Nursing Homes  
1200-08-06-.08 Building Standards
  
- 1200-08-10 Standards for Ambulatory Surgical Treatment Centers  
1200-08-10-.08 Building Standards
  
- 1200-08-11 Standards for Home for the Aged  
1200-08-11-.07 Building Standards
  
- 1200-08-15 Standards for Residential Hospice  
1200-08-11-.08 Building Standards
  
- 1200-08-24 Standards for Birthing Centers  
1200-08-24-.07 Building Standards
  
- 1200-08-25 Standards for Assisted Care Living Facilities  
1200-08-25-.09 Building Standards
  
- 1200-08-28 Standards for HIV Supportive Living Centers  
1200-08-28-.08 Building Standards
  
- 1200-08-32 Standards for End Stage Renal Dialysis Clinics  
1200-08-32-.08 Building Standards
  
- 1200-08-35 Standards for Outpatient Diagnostics Centers  
1200-08-35-.08 Building Standards
  
- 1200-08-36 Standards for Adult Care Homes-Level 2  
1200-08-36-.11 Building Standards
  
- B. 1200-08-02 Standards for Prescribed Child Care Centers  
1200-08-02-.01 Definitions  
1200-08-02-.08 Basic Agency Functions

- 1200-08-06 Standards for Nursing Homes
  - 1200-08-06-.01 Definitions
  - 1200-08-06-.06 Basic Agency Functions
  
- 1200-08-15 Standards for Residential Hospices
  - 1200-08-15-.01 Definitions
  - 1200-08-15-.06 Basic Agency Functions
  
- 1200-08-26 Standards for Homecare Organizations Providing Home Health Services
  - 1200-08-26-.01 Definitions
  - 1200-08-26-.06 Basic Agency Functions
  
- 1200-08-27 Standards for Homecare Organizations Providing Hospice Services
  - 1200-08-27-.01 Definitions
  - 1200-08-27-.06 Basic Agency Functions
  
- 1200-08-28 Standards for HIV Supportive Living Centers
  - 1200-08-28-.01 Definitions
  - 1200-08-28-.06 Basic Agency Functions
  
- 1200-08-34 Standards for Homecare Organizations Providing Professional Support Services
  - 1200-08-34-.01 Definitions
  - 1200-08-34-.06 Basic Agency Functions
  
- 1200-08-10 Standards for Ambulatory Treatment Centers
  - 1200-08-10-.01 Definitions
  - 1200-08-10-.08 Basic Services
  
- 1200-08-35 Standards for Outpatient Diagnostic Centers
  - 1200-08-35-.06 Basic Services
  
- C. 1200-08-10 Standards for Ambulatory Surgical Treatment Centers
  - 1200-08-10-.01 Definitions
  - 1200-08-10-.06 Basic Services
  
- 1200-08-35 Standards for Outpatient Diagnostic Centers
  - 1200-08-35-.06 Basic Services
  
- D. 1200-08-06 Standards for Nursing Homes - Amendments
  - 1200-08-06-.04 Administration

## 8. DISCUSSION(S).

- A. Requesting addition to Physician Orders for Scope of Treatment (POST) form does not include a label for time which is a requirement for authentication of paper records in a patient's medical record.
  - Missy McElwee, Regulatory Readiness Program Manager, Methodist North Hospital
- B. Consider definition/language to explain "Beds" when reference in facility regulation. – Ann Rutherford Reed
- C. **Revisit**-Tennessee Physical Therapy Association is seeking to amend the Hospital Regulation 1200-08-01-.05 relating to the requirement of physician referrals for physical therapy services. – Ann Rutherford Reed
- D. **Revisit**-Tennessee Ambulatory Surgery Center Association is requesting consideration proposed changes to the Ambulatory Surgical Treatment Center (ASTC) Regulations 1200-08-10. The proposed changes are intended to be more appropriate for the ASTC setting and align with current CMS requirements for an ASTC's radiology program. – Ann Rutherford Reed
- E. Clarification of rule 1200-08-10-11(3) which addresses reporting of communicable disease to the Tennessee Department of Health.
- F. Summary of the Assisted Care Living Facility Subcommittee meeting that were held November 17, 2014 and January 20, 2015. – Ann Rutherford Reed
- G. Summary of the Home Medical Equipment Subcommittee meeting that were held December 16, 2014. – Ann Rutherford Reed
- H. **Revisit**-Board approval for Interpretative Guideline for NFPA 99 17.3.5 Pertaining to Hard Piped Gas and Suction Systems & Ventilator Service(s)/Units.
  - Bill Harmon, Facilities Construction Director, TDH
- I. **Revisit**- Assisted Care Living Facility rule 1200-08-25-.16(4) regarding HVAC/Generators in assisted care living facilities. – Ann Rutherford Reed
- J. **Revisit**-Health Care Facility Vaccination Policy. – Ann Rutherford Reed
- K. East TN Dialysis Center, Maryville – Final Progress Report from the Plan of Correction for Board review and approval from Consent Order-June 17, 2013.
  - Ann Rutherford Reed
- L. Board Approval for Interpretative Guidelines for Nurse Aide Training Programs.
  - Kyonzte' Highes-Toombs

9. **LICENSE STATUS UPDATES.**

**HOSPICE ADVANTAGE OF MEMPHIS, MEMPHIS**

Hospice Advantage of Memphis is relocating back to their leased office space located at 5796 Shelby Oaks Drive, Suite 6, Memphis, TN 38134 effective October 8, 2014. This facility's office had flooded in July 2014 resulting in black mold and was operating from a Holiday Inn/Germantown location under the Emergency Operation Plan (EOP).

**WAYNE CARE NURSING HOME, WAYNESBORO**

A Certificate of Need (CON) application has been submitted for the relocation and replacement of Wayne Care Nursing Home, a 46 bed facility and the construction of an addition to Waynesboro Health and Rehabilitation Center (f/k/a Wayne County Nursing Home) a 109 bed facility. This will result in a combination of the two licensed facilities into one licensed nursing home by closing the 46 bed facility and combining those beds via construction for the addition to the 109 bed facility. Upon completion, Waynesboro Health and Rehabilitation Center will have a total licensed bed capacity of 155 beds.

**UNITED REGIONAL MEDICAL CENTER, MANCHESTER AND MEDICAL CENTER OF MANCHESTER, MANCHESTER**

Medical Center of Manchester (MCM), Manchester, was approved as a satellite of United Regional Medical Center (URMC), Manchester at the September 2014 Board meeting. Medical Center of Manchester and United Regional Medical Center did not wish for the satellite designation to be effective September 11, 2014 based upon 3 factors:

- (1) Requested Board approval of the multistep consolidation to remove financing roadblocks in order to proceed to closing.
- (2) Consolidation and approved action could not occur in the same day.
- (3) A definitive agreement was signed regarding consolidation, but no closing had occurred therefore no common ownership between facilities existed at this time of presentation.

The October 3, 2014 Board approval letter for satellite designation was rescinded and additional info received from United Regional Medical Center and Medical Center of Manchester would be addressed by the Board at the January 2015 meeting. A final decision by the Board would be based upon clarification provided by the facilities.

**NASHVILLE REHABILITATION HOSPITAL, NASHVILLE**

Nashville Rehabilitation Hospital's, Nashville, license was placed on a third extension of inactive status through January 20, 2015. This facility had decided to close its license effective December 31, 2014.

**10. LICENSE STATUS REQUESTS.**

**BAPTIST MEMORIAL HOSPITAL-MEMPHIS SKILLED NURSING FACILITY**

This thirty-five (35) bed skilled nursing unit at Baptist Memorial Hospital-Memphis is requesting a second extension for their license to remain on inactive status for an additional twelve (12) months. Baptist Memorial Hospital-Memphis has not yet completed final plans for future operations of this unit. Baptist Memorial Hospital-Memphis was granted an inactive status on February 7, 2013 for twelve (12) month and an extension inactive status waiver was granted on January 23, 2014 for twelve (12) additional months. The current inactive status waiver will expire on February 7, 2015.

**Representative(s):** Dan Elrod, Attorney

**BAPTIST SKILLED REHABILITATION UNIT-GERMANTOWN, GERMANTOWN**

This eighteen (18) bed skilled nursing unit at Baptist Rehabilitation-Germantown is requesting to place their license on inactive status and cease operations pending an evaluation as to the appropriate location and model for future operations. Inactive status for this unit will enable Baptist Memorial to consider the future for this facility.

**Representative(s):** Dan Elrod, Attorney

**CAREALL HOME CARE SERVICES, KNOXVILLE**

This home health agency is seeking a second extension waiver for an additional six (6) months to remain on inactive status. The first extension waiver granted for six (6) months will expire on January 23, 2015. This extended time is required to complete the staffing of the facility, conduct orientation and training of the new staff, and implement proper operational procedures. CareAll Home Care Services intent is to be ready to accept patients by April 1, 2015.

**Representative(s):** Mary Ellen Foley, RN, BSN and Randy Forrest

**SOUTHERN HILLS SURGERY CENTER, NASHVILLE**

This ASTC facility is seeking their sixth extension waiver for an additional twelve (12) months for their license to remain on inactive status through February 7, 2016. The previous physician owners (held 49% ownership) of the facility have divested their interests in the facility. Since the last extension of the inactive status by the Board, the owner (HCA affiliate) has sought new physician investors so this facility can be re-opened. The licensee, Surgicare of Southern Hills, Inc., has filed a Certificate of Need (CON) application to relocate the ASTC to a different site and will re-open the facility with new physician syndication if and when the CON is granted. If the inactive status is not extended, the licensee will not be able to move forward with the CON application. If the CON is granted they will ask the Board to retain the inactive status for an additional period of time necessary to construct the new facility. This ASTC facility was granted a waiver to place their license on inactive status on November 5, 2009 for twelve (12) months, August 19, 2009 an extension waiver was granted for six (6) months, a second extension for twelve (12) months expired on May 31, 2011, a third extension for eighteen (18) months expired on November 4, 2012, a fourth extension for twelve (12) months

expired on February 7, 2014, and the fifth extension for twelve (12) months will expire on February 7, 2015.

**Representative(s):** Jerry Taylor, Attorney

**VOLUNTEER WOMEN'S MEDICAL CLINIC, KNOXVILLE**

This ASTC facility is seeking a second extension waiver for an additional two (2) years for their license to remain on inactive status through January 23, 2017. Volunteer Women's Medical Clinic, Knoxville, had to close due to Senate Bill 3323 which became law in 2012. This law has now been found to be unconstitutional in several other states which passed the same requirement into law. Ms. Walsh believes the higher courts will rule this way when the case is addressed in the state of Tennessee. She wishes to keep Volunteer Women's Medical Clinic's license on inactive status until this case is heard. Volunteer Women's Medical Clinic was placed on inactive status on February 7, 2013 which expired January 2014; an extension waiver for twelve months was granted on January 23, 2014 which will expire on January 23, 2015.

**Representative(s):** Deborah Walsh, Executive Director

**11. WAIVER REQUESTS.**

**PARKWEST MEDICAL CENTER, KNOXVILLE**

This four hundred sixty-two (462) bed hospital is seeking to waive Hospital Regulations 1200-08-01-.05(1) & (5) hospital admission and treatment shall be under supervision of a physician and concerning treatment shall be given or administered to a patient of a hospital except on order of a physician. Parkwest Medical Center provides therapy services at Covenant Therapy Center which is an off campus hospital department separately located from the hospital's main facility. This waiver request was moved to the Performance Improvement Standing Committee in conjunction with the Tennessee Physical Therapy Association's request to amend Hospital regulation 1200-08-01-.05 relating to the requirement of physician referrals for physical therapy services at the September, 2014 Board meeting.

**Representative(s):** Dr. Mary Dillon, Medical Director

**FORT SANDERS REGIONAL MEDICAL CENTER, KNOXVILLE**

This five hundred seventeen (517) bed hospital is requesting to waive Hospital Regulations 1200-08-01-.05(1) & (5) hospital admission and treatment shall be under supervision of a physician and concerning treatment shall be given or administered to a patient of a hospital except on order of a physician and. Fort Sanders Regional Medical Center therapy services are delivered in four (4) Fort Sanders Therapy Centers, hospital departments all located separately from the hospital's main facility. This waiver request was moved to the Performance Improvement Standing Committee in conjunction with the Tennessee Physical Therapy Association's request to amend Hospital regulation 1200-08-01-.05 relating to the requirement of physician referrals for physical therapy services at the September, 2014 Board meeting.

**Representative(s):** Dr. Mary Dillon, Medical Director

**THE FOLLOWING FIVE (5) NURSING HOMES ARE REQUESTING TO WAIVE NURSING HOME REGULATIONS 1200-08-06-.04(4) FOR A TENNESSEE LICENSED NURSING HOME ADMINISTRATOR UNTIL A PERMANENT REPLACEMENT IS HIRED OR RECEIVES HIS/HER LICENSE IN TENNESSEE.**

**GOLDEN LIVINGCENTER-UNION CITY, UNION CITY**

Mr. Peter Stygar, Interim Administrator-Mr. Stygar will be seeking licensure in Tennessee.

**TENNOVA NEWPORT CONVALESCENT CENTER, NEWPORT**

Sharon Black, RN, BSN, MHA, Interim Administrator-Ms. Black will be seeking licensure in Tennessee.

**UNICOI COUNTY NURSING HOME, ERWIN**

Mr. Tracy Byers, Interim Administrator – To seek an extension waiver for an additional six (6) months to allow waiving the requirement for having a Tennessee licensed nursing home administrator until he receives his Tennessee Nursing Home Administrator’s license. Current waiver expires January 21, 2015.

**LINCOLN & DONALSON CARE CENTER, FAYETTEVILLE**

Carolyn Atchley, Administrator – To seek an extension waiver for the requirement of a Tennessee licensed nursing home administrator until a Tennessee licensed administrator can be hired. Current waiver expires January 21, 2015. Lincoln & Donalson Care Center is under one license and is required to have a nursing home administrator for each building. Ms. Atchley serves as administrator for Lincoln Care Center building and Ms. Mary Heatherly, DON is serving as interim administrator for Donalson Care Center building that is seeking the extension waiver.

**BROOKWOOD NURSING CENTER, DECATUR**

Juanita Frazier, Interim Administrator-Ms. Frazier will be seeking licensure in Tennessee.

**FRIENDSHIP HAVEN HOME FOR THE AGED, CHATTANOOGA**

This sixteen (16) bed RHA facility is seeking to waive NHA Rule 1200-08-07(18)b which states “a minimum of two (2) beds per bedroom”. Friendship Haven was previously licensed for 24 beds and wishes to utilize all 24 beds again and will need to be allowed to place more than two (2) beds per bedroom.

**Representative(s):** David Machoka, President, Friendship Haven, Inc.

**PIONEER COMMUNITY HOSPITAL OF SCOTT, ONEIDA**

This twenty-five (25) bed Critical Access facility is seeking to waive Rule 1200-08-01-.06(9)(b) to have a Certified Dietary Manager through March 1, 2015. Emily Acuff, Dietary Employee, will be assuming this role until the position can be filled. They are working diligently to hire a Certified Dietary Manager before the March 1<sup>st</sup> date.

**Representative(s):** Tony Taylor, CEO

**HIGHPOINT HOMECARE, GALLATIN/HIGHPOINT HOSPICE**

Highpoint Homecare is seeking to request for the administrator of the home health agency to serve as administrator for both the home health agency and the licensed hospice. Sumner Regional Medical Center, LLC operates two (2) licensed home health agencies with parent offices in Gallatin and Carthage and a licensed hospice. The two home health agencies will be combined into one licensed home health agency. The parent office will be located in Gallatin and a branch office will be located in Carthage. The home care organization rule language pertaining to an administrator of a home health agency serving more than one home care organization was approved during a rulemaking hearing held at the September 2014 Board meeting. Highpoint is seeking approval for this administrator request while the revised rules continue through the rulemaking process.

**Representative(s):** Kim Harvey Looney, Attorney, Mike Herman, CEO, and Cheri Crowley

**12. BOARD POLICY CONSENTS.**

**A. THE FOLLOWING NURSING HOMES ARE REQUESTING A WAIVER TO PROVIDE OUTPATIENT THERAPY SERVICES AS PROVIDED FOR BY BOARD POLICY #32:**

Allenbrooke Nursing and Rehabilitation Center, LLC, Memphis  
Bailey Park Community Living Center, Humboldt  
Golden LivingCenter-Springfield, Springfield  
Golden LivingCenter-Union City, Union City  
Hillcrest Healthcare Center, Ashland City  
Hillview Community Living Center, Dresden  
Holston Manor, Kingsport  
Lauderdale Community Living Center, Ripley  
NHC HealthCare Kingsport, Kingsport  
NHC HealthCare Lewisburg, Lewisburg  
Oakwood Community Living Center, Dyersburg  
Whitehaven Community Living Center, Memphis

- B. **THE FOLLOWING FACILITIES ARE REQUESTING APPROVAL TO PERMIT AN ADMINISTRATOR TO SERVE BOTH A NURSING HOME AND ASSISTED CARE LIVING FACILITY ACCORDANCE WITH BOARD POLICY #39:**

Appalachian Christian Village, Johnson City

13. **ORDERS.**

- A. **Consent Orders**
- B. **Orders.**

14. **REGULATION(S).**

- A. **BOARD APPROVAL FOR RULEMAKING HEARING.**

**MINUTES  
BOARD FOR LICENSING HEALTH CARE FACILITIES  
JANUARY 21, 2015**

The Board for Licensing Health Care Facilities Board meeting began January 21, 2015.

Ann Rutherford Reed, Director of the Board for Licensing Health Care Facilities, directed the Board members the necessity to choose a chairperson for this meeting. **John Marshall nominated Jim Shulman; Joshua Crisp seconded the motion. The motion was approved.**

Mr. Shulman recognized and welcomed newly appointed Board members. Dr. Kenneth Robertson replaced Dr. Roy King as the physician of medicine representative; Diana Miller replaced Janice Hill as the hospital operated nursing home administrator representative; Roger Mynatt replaced Sylvia Burton as the nursing home industry representative; and Janet Williford replaced Betsy Cummins as the home health agency administrator representative.

Mr. Shulman as the chairperson of the Board for Licensing Health Care Facilities called the meeting to order and requested roll call of attendance.

Mr. Robert Breeden – here  
Mr. Robert Gordon, Chairman Pro Tem – not here  
Dr. Jennifer Gordon-Maloney – here  
Mr. Joshua Crisp – here  
Ms. Betty Hodge – not here  
Ms. Carissa Lynch – here  
Ms. Annette Marlar – not here  
Mr. John Marshall – here  
Ms. Diana Miller - here  
Dr. Michael Miller – not here  
Mr. Roger Mynatt - here  
Mr. David Rhodes - here  
Mr. Jim Shulman – here (voted to serve as Chairperson of this meeting)  
Mr. Bobby Wood – here  
Ms. Diana Miller – here  
Mr. Roger Mynatt – here  
Dr. Sherry Robbins – here  
Dr. Kenneth Robertson – here  
Ms. Janet Williford - here

A quorum was established.

**MINUTES:**

Ms. Reed presented the Board meeting minutes from the September 2013 Board meeting for review and approval by the Board. **Mr. Marshall made a motion to approve the minutes; seconded by Dr. Robbins. The motion was approved.**

## REPORTS:

### EMS -

Robert Seesholtz, EMS Trauma System Manager, presented the EMS report. He provided to the Board the minutes of the August 10, 2014 Trauma Care Advisory Council meeting for review and approval. Mr. Seesholtz provided the Board for Licensing Health Care Facilities with a report on four (4) trauma center visits. He addressed before the Board each of the four trauma center visits referenced below –

University of Tennessee Medical Center underwent on September 22, 2014 a focus site review to address deficiencies related to the facility's trauma registry performance improvement program outreach and medical director involvement in the budget process related to the trauma program. The site review team acknowledged these deficiencies were satisfactorily addressed and the University of Tennessee Medical Center meets the requirement for continued designation as a Level 1 trauma center in Tennessee.

Mr. Seesholtz' informed the Board of upcoming site visits for the following centers during the next year – Johnson City Medical Center, Skyline, Vanderbilt, Regional One, and Erlanger. He also stated to the Board the trauma rule revision is currently underway and is an effort to remove ambiguity from the rules and to be more in line with the American College of Surgeons orange book. Mr. Seesholtz told the Board the 4<sup>th</sup> Annual Trauma Care in Tennessee Report is completed, approved by the Commissioner, and is currently in the Senate Health and Welfare Committee for review. He stated to the Board that copies of this report are available for them if they wish. Mr. Seesholtz stated the report would also be placed on the EMS website. Some Board members expressed an interest in obtaining a copy of the report.

### OGC -

Ms. Kyonzté Hughes-Toombs, General Counsel, presented the Office of General Counsel's (OGC) report. She indicated 18 open cases with 17 involving assisted care living facilities (ACLF) and one (1) involving a home for the aged (RHA). Seven (7) cases are to be presented at this meeting as consent orders. The Trauma Brain Injury Residential Home licensure rules are under review in the Attorney General's Office. A rulemaking hearing for four (4) groups of rule related to speech therapy services, background check in nursing homes, building code rules, and several amendments to the ambulatory surgical treatment center rules.

## CONSIDERATION AND RATIFICATION OF LICENSURE APPLICATIONS (CHANGE OF OWNERSHIP (CHOWS) AND INITIALS):

Ms. Reed presented the CHOW and initial licensure applications received by the Office of Health Care Facilities.

All of the initial applications presented to the Board were processed by the Board's Administrative staff without concern. Several Board members needed to recuse themselves for various initial applications. Carissa Lynch recused for the vote on NHC Healthcare in Kingsport. **Mr. Marshall made a motion to approve this facility's initial application; seconded by Mr. Crisp. The motion was approved.** Ms. Lynch rejoined the meeting and Janet Williford recused for the vote on Baptist Memorial Rehabilitation, Germantown. **Mr. Marshall made a motion to approve this facility's initial application; seconded by Robert Breeden. The motion was approved.** Ms. Williford rejoined the meeting and Mr. Breeden recused for the vote on The Bridge at Hickory Woods, Antioch. **Mr. Marshall made a motion to**

**approve; seconded by David Rhodes. The motion was approved.** Mr. Breeden rejoined the meeting. The remaining initial applications were as follows – Advocate Healthcare, Arlington – Profession Support Services (PSS); Alexian Village of Tennessee, Signal Mountain – Assisted Care Living Facilities (ACLF); Ashley’s Total Care, Memphis – Home for the Aged (RHA); Atlas Medical, LLC, Knoxville – Home Medical Equipment Facility (HME); Barnes Healthcare Services, Knoxville – HME; Bulow Orthotic and Prosthetic Solutions, Nashville – HME; Byram Healthcare Centers, Inc., Germantown – HME; Coram CVA/Specialty Infusion Services, Nashville – HME; Highrise Medical Supply, LLC, Johnson City – HME; KCI USA, Inc., Johnson City – HME; MedTek Medical, LLC, Hendersonville – HME; Morning Pointe of Chattanooga at Shallowford, Chattanooga – ACLF; Physical Therapy Services, PA, Elizabethton – PPS; Physio Care Inc., White House – HME; Sleep Management, LLC, Gallatin – HME; The Arbors at the Etheridge House, Union City – ACLF; The Hearth at Franklin, Franklin – ACLF; Universal Medical Equipment, Nashville – HME. **The applications were presented to the Board as initial applications and were ratified by the Board.**

The following CHOW applications were presented to the Board for approval without staff concern – Azelea Trace Assisted Living, Nashville – ACLF; Emeritus at Main Street, Hendersonville – ACLF; Emeritus at Memphis, Memphis – ACLF; Gardens of Germantown, Germantown – ACLF; Hearth Hospice, Chattanooga – Hospice; Hickory Valley Retirement Center, Chattanooga – RHA; Isokinetics, LLC, Bartlett – HME; Maple Court, Powell – ACLF; Park Place Retirement Community, Hendersonville – ACLF; Raintree Terrace, Knoxville – ACLF; Rehoba Manor, LLC, Memphis – RHA. **The applications were presented to the Board as CHOW applications and were ratified by the Board.**

## **DISCUSSION(S):**

### **Request for Addition to Physician Orders for Scope of Treatment (POST) Time Section –**

Ms. Reed indicated Missy McElwee with Methodist North Hospital made this request. Mike Dietrich, Tennessee Hospital Association (THA), spoke with the facility it was not their intent to make this request. He stated the facility indicated a request was sent to pull from this agenda, but not prior to this meeting date. THA is to work with the Methodist to develop a policy on this item and make a recommendation to all hospitals.

### **Consider Definition/Language to Explain “Beds” Referenced in Facility Regulations –**

Ms. Reed presented this item to the Board. She indicated this item has been brought to the Board on behalf of the administrative staff and surveyors. Ms. Reed asked the Board members to provide an indication of how “beds” would be defined in the regulations. Is a “bed” a single bed, a double bed, or is it intended to be heads equal beds? The office has been confronted recently with issues regarding this. Mr. Shulman requested an example of what is being requested to be explained for the purposes of the new Board members. Ms. Reed stated in some situations surveyors have entered facilities to survey with a licensed bed count for example of 10, but when the surveyor begins to do a head count they find 11 or more resident. The case may be that you have a married couple in one room with a double bed. This can lead to a disconnect between the number of individuals versus the number of beds in the facility. The licensure application and rules reference beds. The life safety requirements designate specific square feet per resident in each room and no more than two (2) residents per room. Mr. Crisp stated that he believes that it has been interpreted in other states and this state that a licensed bed is related to an actual head count. Ms. Reed indicated that this is definitely the concept that life safety surveyors use. Mr. Shulman questioned if there would be ramifications if the decision was to be heads in beds. Mr. Crisp gave an example of a 60 bed facility that had a census of 59 with the potential to admit a married couple putting their capacity at 61 which exceeds the facility’s licensed bed capacity of 60. Ms. Reed indicated this is where some confusion may start. The requirements for square footage

would be met and if a double bed were in room then the number of licensed beds is met. Mr. Marshall asked about the intent of the rule and if the intent centers on life safety. It should be bed equals a patient. Mr. Shulman asked Bill Harmon, Director of Facilities Construction, if there was a definition that addresses this. Mr. Harmon stated no which created the problem. Dr. Sherry Robbins asked if the bed equals head is adopted would this cause issues for married couples in facilities or wanting to enter facilities. Mr. Harmon indicated that this would not be an issue for the codes; there may be one (1) bed in a room, but two (2) people which would require the square footage to be met. Mr. Shulman suggested Mr. Harmon taking this back for further review and then reporting to the Board at the next meeting. Mr. Breeden also suggested looking at the issue at the subcommittee level and to consider all rules, resident rights, etc so that a violation of another rule could occur before a recommendation is made. David Rhodes agreed with the suggestion of moving to a committee for further study. The item was moved to the Facilities Construction Standing Committee for further review.

**Revisit Tennessee Physical Therapy Association Request to Amend Hospital Rule 1200-08-01-.05 –**

Ms. Reed stated this item was previously presented to the Board at the September 2014 Board meeting. The Board requested the item to be addressed by the Performance Improvement (PI) Issues Standing Committee. The committee met yesterday and language was developed and will be presented during the rulemaking portion of the agenda for approval to move to a rulemaking hearing.

**Revisit Tennessee Ambulatory Surgery Center Association (TASCA) Request of Proposed Rule Language Changes to the ASTC Regulations 1200-08-10 –**

Ms. Reed stated this item was previously presented to the Board at the September 2014 Board meeting. The Board requested the item to be discussed with administrative and legal staff of the Board and TASCA to get language into a final format. This language was provided to the Board for review and presentation during the rulemaking portion of the agenda for approval to move to a rulemaking hearing.

**Clarification of Rule 1200-08-10-.11(3) Reporting of Communicable Disease to the Tennessee Department of Health –**

Ms. Reed informed the Board this was a request of TASCA as well. TASCA is questioning who the report should be made on, the patient or the employee. Gina Throneberry with TASCA presented to the Board. Mr. Rhodes asked if this language is found in other facility type rules. Ms. Reed indicated there is language of this nature found in other facility regulations. Ms. Throneberry indicated member ASTCs screen preadmission for communicable diseases. Judy Eads addressed the Board referencing the Department of Health's list of communicable diseases. Mr. Marshall questioned the requirement of ASTCs to screen for communicable diseases. Ms. Throneberry stated this is per policy of the facility not a regulatory requirement. She further stated new regulations are not sought, but merely guidance to who is affected and what is communicable disease. Mr. Marshall indicated the reference to the Department's communicable disease list addresses the what is a communicable disease question. Based upon the discussion, it appeared this item would require further review to determine the history behind the rule and examples of reported incidences of communicable disease in ASTCs. Dr. Kenneth Robertson questioned which communicable diseases an ASTC would screen for; would this be policy driven for each facility including employees and patients. Ms. Throneberry stated that if there was a requirement to screen employees put into effect this would be very costly to the ASTC. Mr. Marshall stated more information is needed and should be reviewed before a recommendation is made. This item was moved to the PI Standing Committee for consideration and review to include review of all rules and regulations containing this language or similar language and a report by ASTC of communicable disease.

### **Summary of November 17, 2014 ACLF Subcommittee Meeting –**

Ms. Reed provided the Board with a summary of this meeting. She stated the following eight (8) items were discussed –

1. administrator regulations to include an increase in the age requirement, add education requirements, and testing of prospective ACLF administrators. The subcommittee voted to increase the age requirement and to move in the direction of testing for ACLF administrators; pharmacy services.
2. secured units which resulted in the amendment of the definition of secured unit and a tie of the definition to the life safety code requirements. An interpretative guideline (IG) was developed and approved for the secured unit definition until the amended rule is effective. **Mr. Rhodes made a motion to approve; seconded by Mr. Marshall. The motion was approved.**
3. in-service requirements
4. social worker definition/regulation resulted in the removal of the social work term and requirement from the interdisciplinary team language.
5. fire safety, 1200-08-25-.10(2)(n), resulted in new language being developed.
6. store meds/'secure' lead to OGC development of rule language for medication storage. The subcommittee also approved an IG for use until the rule language is in effect. **Mr. Shulman made a motion to approve; seconded by Mr. Crisp. The motion was approved.**
7. other items that may be identified which included Martha Gentry's letter concerning medication administration. The item was tabled for further discussion.

All future work of this subcommittee was moved to the ACLF Standing Committee.

### **Summary of December 16, 2014 Home Medical Equipment (HME) Subcommittee Meeting –**

Ms. Reed provided the Board with a summary of this meeting. She stated the following two (2) items were discussed –

1. continuation of the Board's reconsideration of the IG for HME rule 1200-08-29-.06(4) regarding delivery of equipment.
2. continuation of the review of the HME rules. The HME association, ATHOMES, and a provider of home medical equipment in the US provided information to the subcommittee on what other states allow relative to requirements for training and education provided by the HME providers to individuals who received home medical equipment. Other states do allow exemptions from licensure for certain HME providers. The subcommittee questioned if the Board of Pharmacy has exemptions or allowances for licensure as it pertains to mail order medication items that are provided by pharmacies. There was concern voiced over the duplication of services in training/education/assessment, the lack of consistency in requirements for this provider type across the nation, and the advancement of technology and the current scope of the rules. It was asked whether the rules should contain language allowing for the growth of the HME industry. The Office of General Counsel (OGC) stated the law directs what home medical equipment and the service is, but the rules define how the equipment providers train and educate based upon how the provider operates. The subcommittee desired the Board of Pharmacy and Health Care Facilities Board to work together to address this issue and to develop a grid of all states and how each state allows HME providers to work in that respective state.

### **Revisit Board Approval for Interpretative Guideline (IG) for NFPA 99 17.3.5 Hard Piped Gas & Suction Systems & Ventilator Service(s)/Unit(s) –**

Ms. Reed informed the Board this item was heard at the last Board meeting with the determination made that an IG would be difficult to create and that all facilities should be addressed on a case by case

basis. The Board at this meeting requested that Plans Review determine specific items they consistently see when receiving plans for nursing homes wishing to have a ventilator unit. Mr. Harmon addressed the Board stating he did not feel it was appropriate for his staff of reviewers to define medical needs or requirements of patients. The guidance Plans Review has is the building codes or design construction which simply states if ventilator dependent residents are being provided service then hard pipe systems are required. Mr. Harmon stated in the past it has been found that hard pipe systems are not necessary and that portable units can function equally as well. He stated this goes beyond the scope of his staff and would require medical personnel to help in the development of a check list. Mr. Shulman asked if it was appropriate to send to a subcommittee with medical expertise to develop. Ms. Reed stated it would be appropriate to send to one of the standing committees, but suggested Plans Review staff and medical personnel of the Board's administrative staff along with surveyors should discuss and develop something to bring back to the full Board or to one of the standing committees. Mr. Marshall stated having Gene Gantt and the Board of Respiratory Therapy involved and exploring such check list items as plugging all ventilators into e-power and needed square footage per bed. This item was sent to the Facilities Construction Standing Committee for further review.

**Revisit ACLF Rule 1200-08-25-.16(4) HVAC/Generators in ACLFs –**

Ms. Reed informed the Board this was an item heard at the last Board meeting. The discussion was involved with a request to move the item to the Facilities Construction Standing Committee. Since the September 2014 Board meeting there has not been a full complement of members for this standing committee. As of today there is now a full complement and the item will be heard by the standing committee prior to the next Board meeting.

**Revisit Health Care Facility Vaccination Policy –**

Ms. Reed stated this item was also brought before the September 2014 Board regarding the facility regulations and the requirements for flu vaccination. I, legal counsel, and Rosalind Kurita from the Commissioner's Office met regarding this item. New rule language was developed which will be presented to the Board later in the agenda under the rulemaking section for approval to move to a rulemaking hearing. For guidance and use in the interim of the rule making process, two (2) IGS were developed. Two (2) IGs were needed due to the differences in some of the different facility types' regulations. **Mr. Marshall made a motion to approve the presented two (2) IGs; seconded by Mr. Rhodes. The motion was approved.**

**East TN Dialysis Center, Maryville – Final Progress Report –**

Ms. Reed informed the Board this is the final progress report for East TN Dialysis Center based upon their plan of correction and approved consent order from June 17, 2013. The Board was provided the facility's report which was submitted to the East TN Regional Office. The facility is currently operating and has requested an initial survey for certification.

**Board Approval IG for Nurse Aide –**

Ms. Reed informed the Board that the IG to be presented addresses a portion of the regulations relative to the nurse aide training program. Kyonzté Hughes-Toombs presented the actual IG for approval. She recapped for the Board the nurse aide program reports they heard at a previous Board meeting. Ms. Hughes-Toombs stated the regulatory language contains the phrase, 'consistent pattern', and this being a determinant used by the Board to terminate a program. The IG clarifies what 'consistent pattern' means. **Mr. Marshall made a motion to approve; seconded by Dr. Robbins. The motion was approved.**

## **LICENSE STATUS UPDATE(S):**

### **Hospice Advantage of Memphis, Memphis –**

Ms. Reed informed the Board Hospice Advantage of Memphis relocated back to their leased office space located at 5796 Shelby Oaks Drive, Suite 6 in Memphis effective October 8, 2014. The facility's office had flooded in July of 2014 resulting in black mold. The office functioned during this time from Holiday Inn – Germantown under the facility's Emergency Operation Plan.

### **Wayne Care Nursing Home, Waynesboro –**

Ms. Reed informed the Board a Certificate of Need (CON) application has been submitted for the relocation and replacement of Wayne Care Nursing Home a 46 bed facility and the construction of an addition to Waynesboro Health and Rehabilitation Center f/k/a Wayne County Nursing Home a 109 bed facility. This will result in a combination of the two licensed facilities into one (1) licensed nursing home by closing the 46 bed facility and combining those beds via construction for the addition to the 109 bed facility. Upon completion of this project, Waynesboro Health and Rehabilitation Center will have a total licensed bed capacity of 155 beds.

### **United Regional Medical Center (URMC), Manchester and Medical Center of Manchester (MCM), Manchester –**

Ms. Reed recapped for the Board that at the September 2014 Board meeting MCM was approved as a satellite of URMC. MCM and URMC did not wish for the satellite designation to be effective until September 11, 2014 based upon three (3) factors:

- (1) Requested Board approval of the multistep consolidation to remove financing roadblocks in order to proceed to closing.
- (2) Consolidation and approved action could not occur in the same day.
- (3) A definitive agreement was signed regarding consolidation, but no closing had occurred therefore no common ownership between facilities existed at the time of presentation.

The October 3, 2014 Board approval letter for satellite designation was rescinded and additional info received from URMC and MCM would be addressed with the Board at this meeting.

### **Nashville Rehabilitation Hospital, Nashville –**

Ms. Reed informed the Board that Nashville Rehabilitation Hospital's license was placed on a third extension for an inactive status through January 2015. The facility decided to close its license effective December 31, 2014.

## **LICENSURE STATUS REQUEST(S):**

### **Baptist Memorial Hospital-Memphis Skilled Nursing Facility, Memphis –**

This 35 bed skilled nursing unit at Baptist Memorial Hospital-Memphis requested a second extension for their license to remain on inactive status for an additional 12 months. Baptist Memorial Hospital-Memphis at this point had not completed final plans for future operations of the unit. The facility was granted an inactive status on February 7, 2013 for 12 months and a first extension of the inactive status was granted on January 23, 2014 for 12 months. The current inactive status will expire on February 7, 2015. Dan Elrod represented the facility. He informed the Board that one option under consideration is consolidation of two skilled nursing units (see request below) within the Baptist system which would require a certificate of need. Ms. Williford recused from this item. **Mr. Marshall made a motion to grant a second extension of the inactive status for 12 months until February 7, 2016; seconded by Mr. Rhodes. The motion was approved.**

**Baptist Skilled Rehabilitation Unit-Germantown, Germantown –**

This 18 bed skilled nursing unit at Baptist Rehabilitation-Germantown requested to place its license in an inactive status pending an evaluation for an appropriate location and model for future operations. Mr. Elrod represented the facility. He informed the Board that one option under consideration is consolidation of two skilled nursing units (see request above) within the Baptist system which would require a certificate of need. Ms. Williford recused from this item. **Mr. Marshall made a motion to grant the inactive status for 12 months until February 7, 2016; seconded by Mr. Rhodes. The motion was approved.**

**Careall Home Care Services, Knoxville –**

This home health agency is seeking a second extension for six (6) months for inactive status of its license. The first extension was granted for six (6) months and will expire January 23, 2015. This extension is requested to complete staffing of the facility, conduct orientation and training of new staff, and to implement proper operational procedures. Careall's intent is to be ready to accept patients by April 1, 2015. Mary Ellen Foley represented the facility. **Mr. Marshall made a motion to grant a second extension of the inactive status for six (6) months; seconded by Mr. Rhodes. The motion was approved.**

**Southern Hills Surgery Center, Nashville –**

Mr. Marshall recused from this item. This ASTC is seeking their sixth extension for inactive status of its license for 12 months through February 7, 2016. The previous physician owners (held 49% ownership) of the facility have divested their interests in the facility. Since the last extension of the inactive status by the Board the owner (HCA affiliate) has sought new physician investors so this facility can be re-opened. The licensee, Surgicare of Southern Hills, Inc., has filed a certificate of need (CON) with new physician syndication if and when the CON is granted. If the inactive status is not extended, the licensee will not be able to move forward with the CON application. If the CON is granted they will ask the Board to retain the inactive status for an additional period of time necessary to construct the new facility. This ASTC was granted an inactive status on November 5, 2009 for 12 months; an extension on August 12, 2009 for six (6) months; a second extension for 12 months which expired on May 31, 2011; a third extension for 18 months which expired on November 4, 2012; a fourth extension for 12 months which expired on February 7, 2014; and a fifth extension for 12 months which is set to expire on February 7, 2015. Jerry Taylor represented the facility. Mr. Taylor informed the Board that a CON application is set to be heard by the Health Services and Development Agency (HSDA) next month and if approved would allow the relocation of the surgery center with construction of a replacement facility. He also stated the lack of approval of this inactive status extension could void the CON application as the license would be in a limbo state. Mr. Shulman questioned the precedent of approving yet another extension of the inactive status. Ms. Reed stated this is the longest inactive status for a facility license that she can recall. Board members questioned the length of the time needed for the extension. Mr. Taylor indicated the facility would like to make it past the HSDA hearing of the application and then based upon the outcome of that meeting come back before this Board with more definitive timelines and request additional time for the inactive status. **Mr. Rhodes made a motion to grant a sixth extension of the inactive status until the May 2015 Board meeting; seconded by Dr. Robbins. The motion was approved.**

**Volunteer Women's Medical Clinic, Knoxville –**

This ASTC is seeking a second extension of the inactive status of its license for an additional two (2) years through January 23, 2017. Volunteer Women's Medical Clinic had to close due to Senate Bill 3323 which became law in 2012. This new law has been found to be unconstitutional in several other states. It is

felt by the facility operator that the higher courts will rule the law is unconstitutional in Tennessee. Volunteer Women's Medical Clinic's license was placed in an inactive status on February 7, 2013 which expired January 2014. An extension of the inactive status was granted for 12 months on January 23, 2014 and will expire on January 23, 2015. Deborah Walsh represented the facility and was to be available via phone. She did not make the phone call. Mr. Wood inquired as to whether the Board should wait to see what occurs legally with this item. Ms. Hughes-Toombs explained to the Board that the new law requires physicians performing abortions to have hospital privileges. She further stated this has been declared unconstitutional in other states, but not Tennessee and that it could be years before a resolution is reached. **Mr. Marshall made a motion to grant a second extension of the inactive status until the May 2015 Board meeting; seconded by Mr. Rhodes. The motion was approved.**

### **WAIVER REQUEST(S):**

Ms. Reed presented the following waiver requests for consideration by the Board

#### Parkwest Medical Center, Knoxville, and Fort Sanders Medical Center, Knoxville –

Parkwest is a 462 bed licensed hospital and Fort Sanders is a 517 bed licensed hospital both seeking to waive hospital regulation 1200-08-01-.05(1) & (5) regarding hospital admission and treatment shall be under the supervision of a physician and concerning treatment shall be given or administered to a patient of a hospital except on the order of a physician. Parkwest Medical Center provides therapy services at Covenant Therapy Center which is an off campus hospital department separately located from the hospital's main facility. This request was moved to the Performance Improvement (PI) Issues Standing Committee in conjunction with the Tennessee Physical Therapy Association's request to amend hospital regulation 1200-08-01-.05 relating to the requirement of physician referrals for physical therapy services at the September 2014 Board meeting. Dr. Mary Dillon represented the facility via the phone. Estie Harris was also present representing the facility. Mr. Shulman recapped for the Board the work of the PI Standing Committee which included considering a rule change for outpatient therapy services. Several interested parties were in attendance of that meeting. Mr. Shulman stated the current rules are in conflict with the current allowances in the practice act for physical, occupational, and speech therapists. The PI Standing Committee approved the proposed rule language for presentation to the full Board. The facility has to ask for a waiver of the rule since the proposed language will have to go through the rulemaking process. **Mr. Marshall made a motion to approve the waiver request of hospital rule 1200-08-01-.05(1) & (5) for Parkwest Medical Center, Knoxville, and Fort Sanders Regional Medical Center, Knoxville; seconded by Dr. Robbins.** Mr. Breeden questioned why the trade association only brought this forward in the context of hospital licensure. He further stated therapist work in the long term care setting as well and indicated this might be applicable to other settings. Ms. Harris responded to this by stating hospitals brought this issue to her awareness and she is not familiar nor did any research regarding other licensed facility types. Mr. Marshall stated the request for a waiver of any rule related to outpatient therapy services would be heard on a case by case basis. **The motion was approved.**

#### Golden Living Center-Union City, Union City –

This licensed nursing home requested to waive nursing home regulation 1200-08-06-.04(1) for a Tennessee licensed nursing home administrator until a permanent replacement is hired or receives his/her license in Tennessee. **Mr. Marshall made a motion to grant the waiver until the September 2015 Board meeting; seconded by Mr. Breeden. The motion was approved.**

Tennova Newport Convalescent Center, Newport –

This licensed nursing home requested to waive nursing home regulation 1200-08-06-.04(1) for a Tennessee licensed nursing home administrator until a permanent replacement is hired or receives his/her license in Tennessee. **Mr. Breeden made a motion to grant the waiver until the September 2015 Board meeting; seconded by Mr. Marshall. The motion was approved.**

Unicoi County Nursing Home, Erwin –

This licensed nursing home requested an extension of their previously granted waiver of nursing home regulation 1200-08-06-.04(1) for an additional six (6) months. The interim administrator, Tracy Byers, was denied licensure due to not meeting the licensure by examination qualification. He has decided to pursue the regular track for nursing home administrator licensure via the AIT training. The facility presented to the Board a request for a 60 day extension versus a six (6) month extension due to this decision by Mr. Byers. **Mr. Marshall made a motion to grant the extension of the waiver for an additional 60 days; seconded by Mr. Breeden. The motion was approved.**

Lincoln & Donalson Care Center, Fayetteville –

This licensed nursing home requested an extension of their previously granted waiver of nursing home regulation 1200-08-06-.04(1). Lincoln & Donalson is a two building facility under one license and in order to have the two buildings under one license an administrator is required to be at each building. The facility requested the waiver until the May 2015 Board meeting. **Mr. Marshall made a motion to grant the extension of the waiver until the May 2015 Board meeting; seconded by Mr. Breeden. The motion was approved.**

Brookewood Nursing Center, Decatur –

This licensed nursing home requested to waive nursing home regulation 1200-08-06-.04(1) for a Tennessee licensed nursing home administrator until a permanent replacement is hired or receives his/her license in Tennessee. **Mr. Marshall made a motion to grant the waiver until the May 2015 Board meeting; seconded by Mr. Crisp. The motion was approved.**

Friendship Haven Home for the Aged, Chattanooga –

This 16 bed licensed home for the aged (RHA) is seeking to waive regulation 1200-08-07-(18)b regarding maximum number of beds per resident room. This facility was previously licensed as an RHA with 24 licensed beds and the new operator wishes to operate with 24 licensed beds again. David Machoka, President, presented to the Board. Mr. Machoka informed the Board that he took ownership of this facility in 2013 and applied for 16 beds. He further stated awareness of the previous license with 24 beds and stated he was told when wishing to license for 24 that only two (2) residents per room was allowed. Board members sought clarification from Mr. Harmon that the square footage requirements per residents in bedrooms applied to RHAs. Mr. Harmon indicated this is the case being 80 square feet per person. The operator was asked the size of the rooms in question. Mr. Machoka stated the rooms are 264 square feet which allows 80 square feet per person if three (3) people are in the room. Mr. Harmon stated the square footage requirement would be met, but the RHA rules limit two (2) residents per room. Ms. Reed explained to the Board that this facility was previously licensed as a RHA with 24 licensed beds. The license was closed and the facility did not continue to operate. Ms. Machoka purchased the facility and then applied for licensure as a RHA. The previous operator did come before this Board to request 3 residents per room. Mr. Marshall voiced concern this could create an influx of other requests of this nature. Mr. Rhodes indicated there are stringent requirements in terms of hardship that need to be met before granting a waiver. Mr. Shulman inquired if this request has been

made before with Ms. Reed responding that the last license holder for Friendship Haven is the only one she is aware of. Mr. Crisp asked if the earlier conversation regarding the term bed would have any impact on this request. Ms. Reed stated it is possible depending on what size bed you place in the room. Dr. Robbins voiced concern about increasing the number in each bedroom as it related to closet space and the psychological aspect. Mr. Shulman desired to know more about the history of this facility and the rule for two beds per room. He further asked the process for the facility if granted the waiver. Ms. Reed stated the facility would have to submit a letter indicating the desired increase in beds, possible plans submission would need to occur, and a life safety survey would have to take place. **Mr. Rhodes made a motion to deny the waiver request; seconded by Dr. Robbins.** Mr. Machoka continued to address the Board regarding how the facility was built to accommodate three residents per room. Mr. Shulman informed Mr. Machoka the Board has concerns about issuing a waiver that the circumstances may have been different when this was first allowed, and the Board doesn't want to set a precedent. Mr. Machoka continued to plead the case for his request. Mr. Shulman indicated a concern on behalf of the agency he represents, Commission on Aging and Disability, of there being enough affordable housing for the elderly. He asked Mr. Harmon when surveyors were last in this facility. Mr. Shulman asked Mr. Harmon if it would be possible to have a life safety surveyor to visit the facility and report back to the Board. Mr. Breeden also asked if the history of the two (2) persons per room could be explored by staff and brought back to the Board. Mr. Marshall also indicated the involvement of the homes for the aged industry in knowing the why behind the person requirement per room. Mr. Rhodes indicated he could withdraw the motion. This was acceptable to the Board. **Mr. Shulman made an amendment to the denial motion to defer the vote on the motion pending review of the facility by life safety surveyors and pending discussions with staff and other entities on the requirements of two (2) persons per room; amendment seconded by Mr. Breeden.** The amendment was approved. The original motion with amendment was approved.

Pioneer Community Hospital of Scott, Oneida –

This 25 bed licensed critical access hospital is seeking to waiver hospital rule 1200-08-01-.06(9)(b) regarding having a certified dietary manager through March 1, 2015. Tony Taylor, CEO, represented the facility. Mr. Taylor indicated there is a dietary employee to fill this role until it can be filled. **Mr. Marshall made a motion to grant the waiver until the May 2015 Board meeting; seconded by Mr. Rhodes.** The motion was approved.

Highpoint Homecare/Highpoint Hospice, Gallatin –

Highpoint Homecare requested for the administrator of the home health agency to serve as the administrator for both the home health agency and licensed hospice agency. Sumner Regional Medical Center, LLC operates two (2) licensed home health agencies with parent offices in Gallatin and Carthage plus a licensed hospice. The two (2) home health agencies will be combined into one (1) licensed home health agency. The parent office will be located in Gallatin and a branch office will be located in Carthage. The home care organization rule language relative to an administrator of a home health agency serving more than one (1) home care organization was approved during a rulemaking hearing held at the September 2014 Board meeting. Highpoint is seeking approval for this administrator request while the revised rules continue through the rulemaking process. Cherie Crowley, Executive Director of Highpoint Homecare and Hospice, represented the facilities. **Mr. Breeden made a motion to grant the waiver request for 12 months until the January 2016 Board meeting if the new rule language is not effective the facilities must come back before the Board; seconded by Mr. Marshall.** The motion was approved.

## **BOARD POLICY CONSENTS:**

Ms. Reed presented the Board Policy Consent requests. The requests were for Board Policy #32, Nursing Homes and Residential Homes for the Aged to provide outpatient therapy services, and Board Policy #39, administrator to serve both a nursing home and an assisted care living facility.

Board Policy #32 requests –

Allenbrooke Nursing and Rehabilitation Center, LLC, Memphis  
Bailey Park Community Living Center, Humboldt  
Golden Living Center-Springfield, Springfield  
Golden Living Center-Union City, Union City  
Hillcrest Healthcare Center, Ashland City  
Hillview Community Living Center, Dresden  
Holston Manor, Kingsport  
Lauderdale Community Living Center, Ripley  
NHC HealthCare Kingsport, Kingsport  
NHC HealthCare Lewisburg, Lewisburg  
Oakwood Community Living Center, Dyersburg  
Whitehaven Community Living Center, Memphis

Mr. Shulman requested that this policy be explained to the new Board members present at today's meeting. Ms. Reed directed the Board members to the tab on the iPads for explanation of Board Policy #32. Mr. Rhodes questioned the schematics provided with the facility requests and that requirement in the policy that outpatient access does not go through patient areas. Ms. Reed indicated the schematics are reviewed to determine that this is met. If there is a question about what is submitted, the facility is notified for further information.

**Mr. Rhodes made a motion to approve the requests for Board Policy #32 waivers to be issued to Allenbrooke Nursing and Rehabilitation Center, LLC, Memphis; Bailey Park Community Living Center, Humboldt; Golden Living Center-Springfield, Springfield; Golden Living Center-Union City, Union City; Hillcrest Healthcare Center, Ashland City; Hillview Community Living Center, Dresden; Holston Manor, Kingsport; Lauderdale Community Living Center, Ripley; NHC HealthCare Kingsport, Kingsport; NHC HealthCare Lewisburg, Lewisburg; Oakwood Community Living Center, Dyersburg; Whitehaven Community Living Center, Memphis; seconded by Mr. Breeden. The motion was approved.**

Board Policy #39 requests –

Appalachian Christian Village, Johnson City

Mr. Marshall made a motion to approve the request for Board Policy #39 waiver to be issued to Appalachian Christian Village, Johnson City; seconded by Mr. Wood. The motion was approved.

## **ORDER(S):**

**Consent Order(s) –**

The following consent orders were presented to the Board by Ms. Hughes-Toombs.

Autumn Care – ACLF – \$500 CMP assessed. **Mr. Marshall motion to approve; seconded by Dr. Robbins. Motion approved.**

Elmcroft of Kingsport – ACLF - \$500 CMP assessed. **Mr. Marshall motion to approve; seconded by Roger Mynatt. Motion approved.**

McMinnville Board Home – ACLF - \$750 CMP assessed. **Mr. Rhodes motion to approve; seconded by Dr. Robbins. Motion approved.**

Morningside of Cleveland – ACLF - \$500 CMP assessed. **Mr. Mynatt motion to approve; seconded by Mr. Wood. Motion approved.**

Northcliff, Inc. – ACLF - \$250 CMP assessed. **Mr. Marshall motion to approve; seconded by Dr. Kenneth Robertson. Motion approved.**

Renaissance Terrace – ACLF - \$500 CMP assessed. **Mr. Marshal motion to approve; seconded by Dr. Robbins. Motion approved.**

## **REGULATION(S):**

### **Board Approval for Rulemaking Hearing –**

Ms. Hughes-Toombs presented draft rules and proposed language for the Board to review and approve for rulemaking hearing. The first set proposed language presented was for the nurse aide training rule language related to the term ‘consistent’. Ms. Hughes-Toombs referred the Board to the approved IG for this rule and requested adoption of this for movement through the rulemaking process. **Dr. Robbins made a motion to approve for rulemaking hearing; seconded by Mr. Rhodes. The motion was approved.** Ms. Hughes-Toombs presented the second set of language for consideration by the Board for rulemaking hearing. This language was for flu vaccination which should mimic the ACLF rule language and the flu declination statement as a model form. Dr. Robbins suggested an addition to the declination statement of the flu vaccine’s effectiveness timeframe. OGC to update the declination statement model form with this amended language. **Dr. Robbins made a motion to approve the amended language of the declination statement; seconded by Mr. Rhodes. The motion was approved. Mr. Shulman then made a motion to approve the presented flu vaccination language with the amended declination statement model form for rulemaking hearing; seconded by Mr. Rhodes. The motion was approved.**

The next piece of rule language to be presented by Ms. Hughes-Toombs was the language proposed by TASCA. Administrative staff and the OGC met with TASCA to develop finalized rule language with rationale to recommend to the Board. Ms. Hughes-Toombs informed the Board that TASCA felt the requirements suggested for removal are geared more towards a hospital setting than a surgery center setting. The following were the recommended amendments – governing body ensure written facility agreement with one (1) or more acute care general hospital; ensure physician performing survey in the ASTC has admitting privileges in a hospital; remove the reference of requirements for linen, towels, wash clothes, etc; include language that indicates emesis basins, bedpan, urinal, etc are provided as needed; removal of the standard central venous catheter insertion process. Dr. Robertson questioned the comment that ASTCs don’t have central venous catheters. Ms. Hughes-Toombs indicated this is what the association stated. It was asked if there was an ASTC regulation prohibiting central venous catheters. The Board was told no. Mr. Shulman suggested tabling and having this presented when an association representative could be present to address questions. Ms. Reed stated this was the intent at the September 2014 Board meeting. In the meeting with staff, several items were removed from their recommendations due to being in law. Mr. Rhodes clarified that the presented language came from a collaborative effort of the Department and TASCA. He also indicated the desire to continue moving this language forward in the rulemaking process. Ms. Hughes-Toombs continued with the recommended amendments – remove hand hygiene program and influenza vaccine language; remove the requirement for the operating room register to be complete and up to date; strike language that states a licensed registered nurse be present in the ASTC at all times and change to when a patient is present; strike language about dietary and food services and change to have appropriate nourishment available at

patient request; strike the autopsy requirement under pathological waste; strike language for contaminated carcasses; institute influenza vaccination language that mimics CMS reporting guidelines; and implementation of specific language for medical screening to exclude communicable disease. Ms. Hughes-Toombs indicated the last amendment item was addressed earlier in the Board meeting and has been moved to the PI Standing Committee. **Mr. Marshall made a motion to approve the amended language listed above by Ms. Hughes-Toombs for rulemaking hearing; seconded by Mr. Rhodes. The motion was approved.** The storage of medication in ACLF IG was presented to the Board for consideration for rulemaking hearing. **Mr. Rhodes made a motion to move the approved IG for rulemaking hearing; seconded by Dr. Robbins. The motion was approved.** The next recommended language presented by Ms. Hughes-Toombs was the physical therapy language changes. The TN Physical Therapy Association representative was present to discuss. Mr. Shulman informed the Board this language addressing hospital rule 1200-08-01-.05 was approved by the PI Standing Committee for recommendation to the full Board for a move to rulemaking. **Mr. Breeden indicated the need to include other facility type regulations that provide outpatient services such as nursing homes as an amendment to this rule language. Mr. Breeden made this a motion; seconded by Mr. Marshall. The motion was approved. Mr. Breeden made a motion to approve the rule language recommendation with amendment for rulemaking hearing; seconded by Mr. Marshall. The motion was approved.** Ms. Reed indicated there were a few more pieces of rule language to hear for approval. This included an ACLF regulation regarding secured units for which the Board earlier approved an IG, new language for ACLF regulation 1200-08-25-.10(2)(n) regarding fire safety, and the term social worker being removed from the ACLF regulations. Ms. Hughes-Toombs stated the social worker term has been addressed in a previously approved rulemaking packet. **Mr. Mynatt made a motion to approve the IG for secured unit as rule language for rulemaking hearing; seconded by Mr. Rhodes. The motion was approved.** Ms. Reed then asked about the ACLF Standing Committee's approval of the increase of the administrator age requirement from 18 years of age to 21 years of age. Ms. Hughes-Toombs recalled additional work needing to be completed before moving on this. Mr. Shulman asked for the full Board to be brought up to speed on this language change. Ms. Reed reiterated the discussion of the ACLF Standing Committee as it related to the requirements for ACLF administrator certification. The Board decided to address the change in the age requirement for ACLF administrators until a later time.

## **RULEMAKING HEARING:**

Ms. Hughes-Toombs conducted the rulemaking hearing. All Board members stated for the record who they were. The rules for which comments were solicited were as follows: amendments to 1200-08-02; 1200-08-06; 1200-08-15; 1200-08-26; 1200-08-27; 1200-08-28; and 1200-08-34. The amendments include in summary 1200-08-26 providing definition for speech language pathologists in lieu of speech therapist as well as clinical fellow to more closely mirror the language from the rules of the Board of Communication Disorders and Sciences. The amendment to 1200-08-26-.06 will allow clinical fellows to practice within home health settings as fully licensed speech language pathologists without onsite supervision. This same amendment language is being added to the following rules 1200-08-02, Prescribed Child Care Centers; 1200-08-15, Residential Hospice; 1200-08-27, Hospice; 1200-08-28, HIV Supportive Living; and 1200-08-37, Professional Support Services. Ms. Hughes-Toombs gave a brief explanation of the next steps of the rulemaking process. She asked Ms. Reed what notices were provided of this rulemaking hearing. Ms. Reed stated notification was provided via e-mail and other sources available to us to provide organizations and associations with notice. Ms. Hughes-Toombs then gave a summary of the specific rule changes to occur in each body of regulation. She asked for a vote by the Board on the presented rule language, regulatory flexibility analysis, and statement of economic impact. **Mr. Marshall made a motion to adopt the rule language, regulatory flexibility analysis, and**

**statement of economic impact; seconded by Mr. Wood. The motion was approved.** Ms. Hughes-Toombs informed the Board there were three (3) additional sets of rules to vote on. One set of additional rules for which comments were solicited was as follows: amendments to 1200-08-06-.04 Administration to comply with a 2009 statutory change removing the phrase 'or within seven (7) days' from the current rule language and substituting 'initiate' with 'complete'. She again gave a summary of this specific rule change. **Dr. Robbins made a motion to adopt the rule language, regulatory flexibility analysis, and statement of economic impact; seconded by Mr. Rhodes. The motion was approved.** The next set of additional rules for which comments were solicited was as follows: amendments to 1200-08-01, 02, 06, 10, 11, 15, 24, 25, 28, 32, 35, and 36. The building standards in facility rules are being amended by removing all references to specific editions of certain codes and replacing with the following language 'after the applicant has submitted an application and licensure fees the applicant must submit the building construction plans to the department all facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities. International Building Codes excluding chapters one (1) and 11 including reference International Fuel Gas Code, International Mechanical Codes, and International Plumbing Code, National Fire Protection Association (NFPA), NFPA 101 Life Safety Code excluding reference NFPA 5000 guidelines for designing and construction of health care facilities including reference codes and standards US Public Health Service Food Code and Americans with Disabilities Act standards for accessible design when referring to height area or construction type the International Building Code shall prevail where there are conflicts between requirements and local codes the above listed codes, regulations, provisions or this chapter the most stringent requirement shall apply.' Stacia Vetter with NHC commented to this present amendment on behalf of Chris Puri. She asked that when new codes are to be adopted by the Board that this would announce during a Board meeting and then approved at the next Board meeting. The Board concurred. Ms. Reed stated to the Board that this has not been the process in the past. She indicated Mr. Harmon may have comment to this request. Mr. Harmon stated that when a change is adopted by the Board the Plans Review section sends out notice to all parties and grant a 90 day period beyond the date of adoption before enforcement. Mr. Shulman stated this is a request for notice and the 90 day time period is understood. Ms. Reed just wanted to clarify the process to follow, would the Board like for administrative staff to present the newest codes to them officially stating these will come back in three (3) or four (4) months for adoption. Discussion on how much time for notice ensued including the frequency of code changes. **Mr. Rhodes made a motion to adopt the rule language, regulatory flexibility analysis, and statement of economic impact; seconded by Mr. Marshall. The motion was approved.** The final set of amendments presented by Ms. Hughes-Toombs was as follows: 1200-08-10 and 1200-08-35. Rule 1200-08-10-.06 Basic Services is being amended to reflect new federal rules for equipment and supplies listed in CMS-9070-F, amended to remove requirements that qualified nurses in ASTCs and outpatient diagnostic centers (ODC) when invasive procedures are not being performed using local anesthesia or lesser sedation methods, and amended to indicate advance directive forms and organ donation forms are not required to be signed by patients before medical services are provided. This last amendment was a concern brought forth by a member of the legislature. Ms. Hughes-Toombs struck from the rulemaking hearing the language regarding the scope of practice of surgical technologists. **Mr. Marshall made a motion to adopt the rule language, regulatory flexibility analysis, and statement of economic impact; seconded by Dr. Robbins. The motion was approved.** The rulemaking hearing was concluded at this point.

## **REGULATION(S) continued:**

**Board Approval for Rulemaking Hearing continued –**

The last rule language to be presented to the Board for approval for a rulemaking hearing was presented at this time. The rule language for ACLF rule 1200-08-25-.10(2)(n) that was approved by the ACLF Standing Committee was provided to the Board for review. **Mr. Mynatt made a motion to approve the presented rule language for rulemaking hearing; seconded by Mr. Marshall. The motion was approved.**

**RULEMAKING HEARING continued:**

Ms. Hughes-Toombs asked the Board to enter back into the rulemaking hearing. She stated to the Board that a roll call vote was needed for approval all rules presented movement through the rulemaking process. A roll call vote was taken –

- Robert Breeden – yes
- Joshua Crisp – yes
- Dr. Jennifer Gordon-Maloney – yes
- Carissa Lynch – yes
- John Marshall – yes
- Diana Miller – yes
- Roger Mynatt – yes
- David Rhodes – yes
- Dr. Sherry Robbins – yes
- Dr. Kenneth Robertson – yes
- Jim Shulman – yes
- Janet Williford – yes
- Bobby Wood – yes

Mr. Marshall made a motion to adjourn the meeting; seconded by Mr. Breeden. The meeting was adjourned.