



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: May 5, 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
(Call-in Number: 1-888-757-2790 passcode: 457462#)

Date of Meeting: May 6, 2015
Time: 9:00 a.m., CDT
Place: Iris Conference Room
665 Mainstream Drive, First Floor
Nashville, TN 37243

Major Item(s) on Agenda: See attachment.

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.



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

May 6-7, 2015

IRIS CONFERENCE ROOM, FIRST FLOOR

9:00 a.m.

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

- 1. CALL THE MEETING TO ORDER.**
- 2. ESTABLISH A QUORUM.**
- 3. ESTABLISH A CHAIRMAN FOR MEETING.**
- 4. APPROVAL OF MINUTES.** – January 20, 2015 – ACLF Standing Committee Meeting
– January 20, 2015 – PI Issue Standing Committee Meeting
– March 10, 2015 –PI Standing Committee Meeting
– March 24, 2015 – Facilities Construction Standing
Committee Meeting
- 5. REPORTS**
 - A. EMS REPORT** - Robert Seesholtz
 - B. NURSE AIDE REPORT** – Wanda King
 - C. OFFICE OF GENERAL COUNSEL REPORT** - Kyonzte' Hughes-Toombs

6. CONSIDERATION AND RATIFICATION OF LICENSURE APPLICATIONS (CHANGE OF OWNERSHIP (CHOWS) AND INITIALS).

A. CONSIDERATION.

(INITIALS)

Maxim Healthcare Services, Inc., Sullivan-Home Health Agency

B. RATIFICATION.

1. QUALIFYING APPLICATIONS

(INITIALS)

All American Medical, Memphis-Home Medical Equipment Facility

Breathe America Sleep Supplies, LLC, Nashville-Home Medical
Equipment Facility

Burden Drug Center, Inc., Jamestown-Home Medical Equipment
Facility

In Touch Elder Care, LLC, Knoxville-Home for the Aged Facility

Jensen Medical, Inc., Hendersonville-Home Medical Equipment Facility

Satellite Healthcare South Germantown, Memphis-End Stage Renal
Disease Facility

Tanya Gibbs, M.S., CCC-SLP, Antioch-Professional Support Services

Coram Alternate Site Services Inc. d/b/a Coram CVS/Specialty Infusion
Services, Shelby-Home Health Agency

Premier Health Care, LLC, Bartlett-Professional Support Services

Quail Ridge Alzheimer's Special Care Center, Bartlett-Assisted Care Living
Facility

NHC Place, Sumner, Gallatin-Nursing Home

NHC Place, Sumner, Gallatin – Assisted Care Living Facility

New Haven, LLC, Powell-Professional Support Services

2. (CHOWS)

Memphis Gastroenterology Endoscopy Center East, Germantown-
Ambulatory Surgical Treatment Center

Scoters Unlimited/Jackson Medical Supply, Jackson-Home Medical
Equipment Facility

7. DISCUSSION(S).

A. Summary of the Performance Improvement Issue Standing Committee Meeting that was held March 10, 2015. – Ann Rutherford Reed

B. Summary of the Assisted Care Living Facility Standing Committee Meeting that was held March 24, 2015 from 10:00 a.m. to 12:00 noon. – Ann Rutherford Reed

C. Summary of the Facilities Construction Standing Committee Meeting that was held March 24, 2015 from 1:00 p.m. to 3:00 p.m. – Ann Rutherford Reed

- D. **Revisit**-Consider definition/language to explain “Beds” when reference in facility regulation presentation for Board Approval for Interpretative Guideline.
– Ann Rutherford Reed
- E. **Revisit**-Board Approval for Interpretative Guideline for NFPA 99 17.3.5 Pertaining to Hard Piped Gas and Suction Systems & Ventilator Service(s)/Unit(s).
– Ann Rutherford Reed
- F. **Consider**-Home Care Organization Providing Home Health Services 1200-08-26-.01(48) and 1200-08-26-.05(4) and (8) pertaining to physician who supervises patient care and writes orders. – Patricia Elliott, MSN, RN
- G. **Legislative Update** – Jeremy Davis
- H. **Consider**-Prime Dialysis LLC Licensure Determination Request, End Stage Dialysis Clinic vs. Home Health Agency.
- I. **Friendship Haven Home for the Aged**- Deferral – Ann Rutherford Reed

8. **LICENSE STATUS UPDATES.**

CAREALL HOME CARE SERVICES, KNOXVILLE

This Home Health Facility received a second extension for inactive status on January 21, 2015 at the January board meeting which would remain in effect for an additional six (6) months. In March, the facility provided notification that they would be reopening on April 1, 2015.

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 1st date. Pioneer is required to come back in May to give an update to their status of hiring a Certified Dietary Manager.

9. **LICENSE STATUS REQUESTS.**

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. Due to phone difficulties at the January 21, 2015 Board meeting the Board asked Ms. Walsh to come back in May to explain her waiver request.

Representative(s): Deborah Walsh, Executive Director

JACKSON PARK CHRISTIAN HOME, INC., NASHVILLE

This twenty-eight (28) bed nursing home facility is seeking a fourth extension of their license to remain on inactive status for an additional twelve (12) months. Signature Healthcare, LLC formally completed the change of ownership process for the licensure of the facility from its previous owner and Signature requested to continue the inactive status which May 8, 2014. Signature Healthcare, LLC is currently evaluating the best options for the facility going forward.

Representative(s): Christopher Puri, Attorney

SOUTHERN HILLS SURGERY CENTER, NASHVILLE

This ASTC facility is seeking their seventh extension waiver for an additional twelve (12) months for their license to remain on inactive status. 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 the owner has sought new physician investors so this facility can be reopened. The facility went before the Health Services and Development Agency in February but had their application deferred until their March meeting because the meeting concluded before the facility was heard. In light of the circumstances Southern Hills Surgery Center is diligently seeking another extension.

Representative(s): Jerry Taylor, Attorney

ASSOCIATES OF MEMORIAL/MISSION OUTPATIENT SURGERY CENTER, LLC, CHATTANOOGA

This Ambulatory Surgical Center wants to be placed on inactive status for twelve (12) months due to the departure of several physicians. These physicians sold their ownership interests in Memorial/Mission and have since invested in another surgery center. Due to the reduced number of significant low volume of cases the facility is seeking inactive status.

Representative(s): Dan H. Elrod, Attorney

10. **WAIVER REQUESTS.**

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.

SIGNATURE HEALTHCARE OF GREENEVILLE, GREENEVILLE

Tyler Fackrell, Interim Administrator-Mr. Fackrell is seeking licensure in Tennessee.

SIGNATURE HEALTHCARE OF ST. PETER VILLA, MEMPHIS

Kathy Bryant, Interim Administrator-Ms. Bryant is seeking licensure in Tennessee.

GOLDEN LIVINGCENTER-SPRINGFIELD, SPRINGFIELD

Herschel Sedoris, Interim Administrator-Mr. Sedoris is seeking licensure in Tennessee.

WHITEHAVEN COMMUNITY LIVING CENTER, MEMPHIS

Jerry South, Interim Administrator-Mr. South is acting administrator until a Permanent licensed Tennessee candidate is found.

Representative(s): Alan Smith, Regional Director of Operations, Community Eldercare Services

BROOKWOOD NURSING CENTER, INC., DECATUR

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

REVISIT-FRIENDSHIP HAVEN HOME FOR THE AGED, CHATTANOOGA

This sixteen (16) bed RHA facility is seeking to waive Home for the Aged rule 1200-08-07(18)b which states, "No bedroom shall have more than two (2) beds". 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

BLOUNT MEMORIAL HOSPITAL, MARYVILLE

This three hundred and four (304) 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. Blount Memorial Hospital's Outpatient Therapy Centers (dba Total Rehabilitation of Blount Memorial Hospital) therapy services are delivered in five (5) in Blount Memorial Hospital's Therapy Centers, one (1) is located at the hospital location.

Representative(s): Jane Nelson, Administrator

CUMBERLAND RIVER HOSPITAL, CELINA

Cumberland River Hospital, Celina is requesting to waive hospital rule 1200-08-01-.01(36)(c) for the definition of a Critical Access Hospital (CAH). In order for this facility to comply with the CAH requirements they will need to reduce their acute bed count from 28 to 25 and also operate a distinct 8 bed geriatric psychiatric unit for a total of 33 beds.

Representative(s): Patricia L. Strong, Interim CAO

11. BOARD POLICY CONSENTS.

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

Bradley Healthcare & Rehabilitation Center, Cleveland
Spring City Care & Rehabilitation Center, Spring City
Sommerfield at the Heritage, Brentwood
Briarwood Community Living Center, Lexington
Dyersburg Nursing and Rehabilitation Inc., Dyersburg
Savannah Health Care and Rehabilitation Inc., Savannah
Whitehaven Community Living Center, Memphis
Christian Care Center of Rutherford County, Smyrna
NHC Place Sumner, Gallatin

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:

NHC Place Sumner, Gallatin (Nursing Home and ACLF)
Benchmark Healthcare of Puryear, Inc (Nursing Home) and Benchmark Assisted Living, LLC (ACLF)

12. CONTESTED CASE HEARING(S)

13. ORDERS.

A. Consent Orders

B. Orders.

14. REGULATION(S).

A. BOARD APPROVAL FOR RULEMAKING HEARING.

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
May 6, 2015

The Board for Licensing Health Care Facilities Board meeting began May 6, 2015.

Dr. René Saunders was present at her first Board for Licensing Health Care Facilities meeting introducing herself as the new chairman of the Board and providing background regarding her experience. She called the meeting to order and requested roll call of attendance.

Dr. René Saunders, Chairman –here
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 – here
Mr. John Marshall – here
Dr. Michael Miller - here
Mr. David Rhodes - here
Mr. Jim Shulman – here
Mr. Bobby Wood – not here
Ms. Diana Miller – here
Mr. Roger Mynatt – here
Dr. Sherry Robbins – not here
Dr. Kenneth Robertson – here
Ms. Janet Williford - here

A quorum was established.

MINUTES:

Ms. Ann Reed, Director of the Board for Licensing Health Care Facilities, presented the standing committee meeting minutes of the January 20, 2015 Assisted Care Living Facility Standing Committee for review and approval by the members of that committee. **Mr. Roger Mynatt made a motion to approve the minutes, seconded by Ms. Carissa Lynch. The motion was approved.** Ms. Reed presented the January 20 and March 10, 2015 Performance Improvement Issues Standing Committee minutes for review and approval by the members of that committee. **Mr. John Marshall made a motion to approve the minutes, seconded by Mr. Jim Shulman. The motion was approved.** Ms. Reed stated to the full Board that the March 24, 2015 Facilities Construction Standing Committee minutes were approved by the standing committee at their meeting yesterday.

Ms. Reed stated all standing committee meeting minutes need approval by the full Board. **Mr. David Rhodes made a motion to approve all standing committee minutes presented, seconded by Mr. Marshall. 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 November 12, 2014 Trauma Care Advisory Council meeting for review and approval. **Mr. Marshall made a motion to approve the minutes, seconded by Mr. Shulman. The motion was approved.** 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 –

Starr Regional Medical Center f/k/a Athens Regional Medical Center underwent a trauma focus site review on April 8, 2014. It was found at that time the facility did not have a viable process improvement program. The facility addressed the cited deficiencies and provided a corrective action plan to the Department of Health which was accepted. **The site team recommended continued designation as a Level III Trauma Center. The Board approved this recommendation.**

Johnson City Medical Center underwent a trauma verification site review February 2014. A follow-up trauma focus site review occurred on January 22, 2015. The facility addressed all deficient items and was found to meet all requirements and standards for a Level I Trauma Center. **The site team recommended continued designation as a Level I Trauma Center. The Board approved this recommendation.**

Skyline Medical Center underwent a one year provisional Level II trauma verification site review on April 30, 2015. Significant effort was evident by the facility to the trauma program during this provisional review. The review did reveal several deficiencies including nurse surgical response time, lapses in recognition of patient shock or airway compromise, and the performance improvement process did not have appropriate loop closure. **The recommendation includes a corrective action plan must be presented within 60 days and made available to the Board as well as remaining on provisional status for an additional year with another site review occurring in 2016.** Representatives from Skyline spoke to the Board indicating the facility's support of the efforts to reach compliance with the trauma program requirements. Ms. Reed indicated for the record that Mr. Marshall recused himself during the presentation on Skyline. **The Board approved this recommendation.**

Erlanger Medical Center underwent a Level I trauma verification site review on May 1, 2015 with the report currently under review. The report will be available at the next Board meeting.

Mr. Seesholtz' spoke to the Board regarding a waiver request previously presented to the Board by Bristol Regional Medical Center and Holston Valley Medical Center related to neurosurgical coverage in each facility. The Board denied the waiver request. An unannounced site visit was made to each facility to review the neurosurgical coverage which also included other regionally located trauma centers. The result of the review indicated a lack of adequate neurosurgical coverage at Holston Valley Medical Center and Johnson City Medical Center. Bristol Regional Medical Center was found to have adequate coverage. As a result of the unannounced visit corrective action plans were requested of Holston Valley Medical Center and Johnson City Medical Center which are to include monthly neurosurgical call schedules being forwarded to Mr. Seesholtz' office for review to ensure compliance with the trauma regulations until February 2016. Mr. Seesholtz updated the Board on the status of the current revision of the trauma rules.

Nurse Aide-

Ms. Wanda King, Nurse Aide Program Manager, presented the report for the nurse aide program. She referenced nursing home rule 1200-08-06-.15 which requires each training program for nurse aides that a nursing home administers must have a pass rate on both a written and performance exam of at least 70% or the program becomes subject to closure after a consistent pattern of poor test performance. Ms. King also reminded the Board of their newly adopted interpretative guideline (IG) for this rule which directs after three years of poor pass rates by a program it would be subject to closure. In September of last year, several programs with poor pass rates presented to the Board. As a result of that meeting and presentation by those programs the Board developed the IG previously referenced and this led to three programs coming back at today's meeting to address their current pass rates. Also, data was looked at for 2012, 2013, and 2014 which led to more programs with poor pass rates being discovered and requested to appear before the Board today. Ms. King also stated the Board in September of last year asked that the Office of Health Care Facilities (OHCF) develop a plan for program improvement recommendations which will be reported to the Board. Several facilities presented to the Board regarding their pass rates for the last three years. Ms. King then presented recommendations to the Board members for program improvement. She informed the Board that the nurse aide test is on a 5th grade level, there is a 24 hour website available to training programs providing feedback on all test pass rates, there are 27 skills tested on of which 5 must be passed, the test is available in Spanish, any nursing home may be a program test site, training and testing completion takes four months, the OHCF must be advised of any change in a program coordinator or instructor, the instructor may be an LPN; but the coordinator must be a RN, and there is a nurse aide advisory panel that meets twice a year. Ms. King voiced the concern that a licensed professional is not always present during the clinical portion of training which is a requirement of nursing home rule. She informed the Board that the nurse aide advisory panel reviews the test questions for the nurse aide testing one a year and the candidate handbook is updated at the end of each meeting of this panel which is posted on the department's website. Ms. King shared with the Board the recommendations of the nurse aide advisory panel which were offering training for caregivers which relates to caregiving of residents with dementia and abuse prevention, training programs to be a minimum of 120 clock hours (no less than 80 hours in the classroom and no less than 40 hours in a clinical setting), and have all CNA instructors attend at least one instructor workshop presented by a testing agency during a two year approval period. She further stated as a recommendation the development of an action plan for remediation to assist the CNA in noted areas of deficiency in order to improve the skill of the candidate. Mr. Marshall questioned the calculations of the failure rate of the programs. One of the programs explained how the pass/fail rates are determined – one candidate takes the test three times; failing the first two, but passing the third test; the program based on this example would have a pass rate of 33%. A request was made for the Board to look at how the pass/fail rates are figured. Mr. Marshall requested to see the overall pass rates for programs versus the overall retraining numbers. Ms. King indicated she could review data from the first six months of 2015 in order to gain this information. Mr. Mynatt agreed with the direction of Ms. Marshall's request. Mr. Robert Breeden sought clarification that the determination of pass/fail rates was a state requirement and not a CMS requirement. Ms. King informed the Board that the state nursing home regulations require a 70% pass rate of the program and a 75% pass rate for the individual testing. Mr. Marshall tried to determine if a regulation change was needed or simply a change in how calculations were computed to reach the desired pass rate for a program. **Mr. Breeden made a motion to move this item to the Education Standing Committee; seconded by Mr. Shulman. The motion was approved.**

OGC -

Ms. Kyonzté Hughes-Toombs, General Counsel, presented the Office of General Counsel's (OGC) report. She indicated 26 open cases with the Office of General Counsel, 22 cases involving assisted care living facilities, two involving homes for the aged, one involving a hospital, and one involving a professional support services agency. Ms. Hughes-Toombs stated she would be presenting 19 cases as consent orders. An update was given on the status of current rules – definition, services function, rules primarily for the POST language will be effective June 25, 2015. Ms. Hughes-Toombs reported there were five rule packets in the Attorney General's Office currently under review.

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.

The administrative staff had one CHOW application to present for consideration by the Board. The application was for Maxim Healthcare Services, Inc., Sullivan a home health agency. Concern was the indication by the applicant on the application of action taken against a license for a facility in Tennessee or any other state. **Mr. David Rhodes made a motion to approve the home health agency initial application; seconded by Mr. Shulman.** The following three applications were not included in the list of initial applications for approval – Coram Alternate Site Services Inc. d/b/a Coram CVA/Specialty Infusion Services, Shelby; NHC Place, Sumner, Gallatin nursing home; NHC Place, Sumner, Gallatin ACLF. Ms. Carissa Lynch recused from the vote on these three facilities. **Mr. Marshall made a motion to approve these three initial applications; seconded by Dr. Kenneth Robertson. The motion was approved.** Ms. Lynch returned to the Board meeting and the following initial applications were processed by the Board's administrative staff without concern – All American Medical, Memphis – Home Medical Equipment; Breathe America Sleep Supplies, LLC, Nashville – Home Medical Equipment; Burden Drug Center, Inc., Jamestown – Home Medical Equipment; In Touch Elder Care, LLC, Knoxville – Home for the Aged; Jensen Medical, Inc., Hendersonville – Home Medical Equipment; New Haven, LLC, Powell – Professional Support Services; Premier Health Care, LLC, Bartlett – Professional Support Services; Quail Ridge Alzheimer's Special Care Center, Bartlett – Assisted Care Living Facility; Satellite Healthcare South Germantown, Memphis – End Stage Renal Dialysis Clinic; Tanya Gibbs, M.S., CCC-SLP, Antioch – Professional Support Services. **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 – Memphis Gastroenterology Endoscopy Center East, Germantown – Ambulatory Surgical Treatment Center; Scooters unlimited/Jackson Medical Supply, Jackson – Home Medical Equipment. **The applications were presented to the Board as CHOW applications and were ratified by the Board.**

DISCUSSION(S):

Summary of the March 10, 2015 Performance Improvement Issue (PI) Standing Committee Meeting – Ms. Reed provided a summary of the activities of the above PI Standing Committee to the full Board. The standing committee issued a 'homework' item as a result of this meeting which THA completed which was looking at other states in regard to advance practice nurse (APN) admitting privileges/writing admitting orders and being on call in hospitals. Other items discussed during this standing committee were report of communicable disease language and the meaning of this language and the home medical equipment regulation regarding delivery of equipment including the interpretative guideline. Mike Dietrich with THA presented to the full Board the results of the 'homework' item assigned to them.

There was a response from 10 states which indicated the APN was allowed to write admit orders. In these cases, the hospital by-laws directed how this would work on an organizational level. Ms. Reed indicated to the full Board that OGC was working to develop rule language to address the items of APN role and communicable disease. Mr. Dietrich asked what the next steps would be in relation to the APN item and could a waiver be requested. It was indicated to Mr. Dietrich that this could indeed be done when the new rule language is presented.

Summary of the March 24, 2015 Assisted Care Living Facility (ACLF) Standing Committee Meeting –

Ms. Reed provided a summary of the activities of the above ACLF Standing Committee to the full Board. The standing committee discussed the ACLF rule regarding administrator requirements. The committee requested more information be gathered from NAB on ACLF administrator testing with THCA working to gather some of that information, examples of the fee structure for testing/domain of practice to be tested/trends in assisted living and nursing home administrators such as total number of each. Other items of discussion were pharmacy services in ACLFs which was tabled until the next scheduled standing committee, medication administration discussion to be headed by THCA of all relevant Boards to discuss medication administration by non-licensed personnel and the current medication technician law, development of best practices was recommended by the ACLF standing committee to reach its own fruition, the top ACLF deficiencies were presented and education on how the CMP deficiencies were determined was provided, transfer requirements, consideration of MD orders after hospital discharge to include what an ACLF resident looks like as well as what the average ACLF facility currently looks like; this item will be worked on by Board administrative staff for presentation of information to the standing committee at its next scheduled meeting, abuse reporting was discussed and removed from the ACLF Standing Committee's agenda as it is already covered in the rules, life safety building standards for exterior lighting was discussed and determined that codes are in place to address, admission paperwork timeframe was discussed, but was felt by the standing committee to be addressed in the rules.

Summary of the March 24, 2015 Facilities Construction Standing Committee Meeting –

Ms. Reed provided a summary of the activities of the above Facilities Construction Standing Committee to the full Board. The standing committee considered the following items – definition of the term 'beds' in the regulations which resulted in the development of an IG and rule language, codes pertaining to hard piped gas suction systems and ventilator services units with consideration given to the development of an IG for Plan Review to utilize as plans are submitted to that section which resulted in the development of an IG to be presented to the full Board for approval, and the last item was HVAC units in ACLF and disaster preparedness which resulted in the approval of the nursing home rule language to be inserted into the ACLF and home for the aged regulations. Mr. Rhodes questioned if an IG as developed for the HVAC rule language to be changed. Ms. Reed indicated that it had not. The full Board chose to develop an IG for this specific rule language change. Mr. Crisp had concerns with the insertion of the nursing home rule language into the ACLF rule language and their being cross requirements with building/life safety codes. Ms. Reed indicated that as this was discussed Bill Harmon with Plans Review did not reveal any contradiction. Dr. Robertson stated that he felt Plans Review was good with the new rule language to be inserted into the ACLF and RHA regulations and that it would allow more flexibility to the facility to define these items in the respective facility's disaster plan. **Mr. Rhodes made a motion for an IG to be developed to address the HVAC use in ACLFs/RHAs in the disaster plan and to have the language/requirement to be consistent with the nursing home rule on HVAC use and disaster plans until the new rule language is approved; seconded by Dr. Robertson. The motion was approved.**

Revisit – Consider Definition Language to Explain “Beds” in Facility Regulation Interpretative Guideline (IG) Approval –

Ms. Reed presented to the full Board the IG developed and approved by the Facilities Construction Standing Committee for the term “beds”. **Mr. Rhodes made a motion to accept the IG; seconded by Mr. Crisp. The motion was approved.**

Revisit – Interpretative Guideline (IG) Approval for NFPA 99 17.3.5 Pertaining to Hard Piped Gas and Suction Systems & Ventilator Service(s)/Unit(s) –

Ms. Reed presented to the full Board the IG developed and approved by the Facilities Construction Standing Committee for piped in gas and ventilator units in nursing homes. She indicated this was a collaborative effort between the administrative staff and Gene Gantt. **Mr. Rhodes made a motion to accept the IG; seconded by Diana Miller. The motion was approved.**

Consider – Home Care Organization Providing Home Health Services 1200-08-26-.01(48) and 1200-08-26-.05(4) & (8) Pertaining to Physician Who Supervises Patient Care and Writes Orders –

Ms. Reed presented this item to the full Board indicating the requestor of this item was unable to attend the meeting. She indicated it would be the desire of the Board to either hear this item or table. **Ms. Lynch made a motion to table this item until the September 2015 Board meeting; seconded by Mr. Rhodes. The motion was approved.**

Legislative Update -

Jeremy Davis, Legislative Liaison with the Department of Health, presented bills that passed the last legislative session that would have impact on the Board and/or licensees. The following are the newly enacted bills:

Senate Bill 98 – The Department of Health put forth this act which would allow the Commissioner of Health or his designee to have electronic access to medical records in order to facilitate investigations when we are responding to an immediate threat to public health.

Senate Bill 99 – The Department of Health put forth this act as well. This act defines abuse and neglect for the purposes of placing a person on the abuse registry and it increases the time in which someone can partition the department when they are included on the registry for an appeal. The timeframe is changing from 30 days to 60 days.

Senate Bill 112 – This is an administration bill put forth by TennCare. This bill authorizes the Board for Licensing Health Care Facilities and some other departments to amend their licensure rules to be consistent with federal home and community based settings final rule.

Senate Bill 157 – This bill deletes the intractable pain act.

Senate Bill 280 – This bill will decriminalize the possession of cannabis oil as long as the following criteria are met; the oil contains less than .9% of THC, labeled as such by the actual manufacturer of the oil, the person in possession must retain proof of the legal order or recommendation from the issuing state.

Senate Bill 367 – Changes current law to authorize rather than require radiologist services to be offered at ASTCs. It leaves the decision to provide radiology services up to each ASTC’s governing body.

Senate Bill 467 – This bill concerns the Joint Governing Operations Committee and the committee’s timeframe to stay a rule. The timeframe is increasing from 60 days to 75 days plus adding two new criteria to consider when reviewing the rules. The added criteria are arbitrary and capriciousness.

Senate Bill 615 – This bill concerns newborn screening. The bill codifies the current state retention policy for lab specimens. Newborn screening pamphlets will contain new information.

Senate Bill 811 – This bill is called the Tennessee Right to Try Act. It authorizes eligible patients to have access to investigational drugs or products that have passed phase one of FDA clinical trials that have not been cleared for general use. The bill sets for that the clinical trial be documented by the National

Institute of Health and eligibility is very well defined. The participating patient must have considered all other FDA approved treatments, received a recommendation from their physician for the investigational drug/product, have given their written informed consent with this documented by the patient's physician, and the patient bears all costs associated with the investigational drug/product. The bill also prohibits Medicare or any licensing Board from taking any adverse action against a licensee on the recommendation of this method of treatment.

Senate Bill 892 – This bill allows disclosure of protected health care information in medical malpractice suits.

Senate Bill 1142 – This bill requires that any health care facility that provides care with regards to dementia with Lewy Bodies or frontotemporal dementia to provide written disclosures of that form of care, treatment, or activity to the individual that is going to receive the treatment.

Senate Bill 1222 – This bill passed relative to Amendment 1 that passes in November of last year. The bill states that unless a medical emergency no induced termination of pregnancy shall be performed unless the woman has been informed in-person by the attending physician that she is pregnant, what the probable gestation time, viability of the child, information relative to the public and private agencies & services that are available to assist with adoption & pregnancy, medical benefits & risks of undergoing a procedure or carrying the child full term, and the general description of the method of ITOP to use i.e. surgical or medical. The bill also places a 48 our waiting period from the time of informed consent to the time of the procedure unless a medical emergency. The patient must sign the consent form after the 48 hour waiting period. The bill creates a new Class E felony for any physician who performs an ITOP and fails to either provide the required information, wait 48 hours, or to receive written informed consent from the woman. Also, a Class E misdemeanor is created if a physician fails to provide a copy of the signed informed consent document. If any physician intentionally violates any requirements of this bill they are determined to be guilty of unprofessional conduct and shall be subject to licensure suspension or revocation.

Senate Bill 1280 – This bill would require any facility or private physician's office to become licensed as an ASTC if 50 or more surgically induced terminations of pregnancy are performed in a calendar year.

Independent Home Dialysis f/k/a Prime Dialysis, LLC –

Ms. Reed explained to the Board this is an item for determination of the facility type Independent Home Dialysis would be considered, home health agency or an end stage renal dialysis clinic. She further directed the Board to the communications between the potential provider and administrative staff which included a description of how services would be provided by this entity. Independent Home Dialysis would be providing dialysis services to patients of a nursing home to include education of caregivers in the facility. Vinton Fleming spoke on behalf of Independent Home Dialysis. He indicated there is a need for this service in nursing homes across the state. Mr. Fleming also stated it is a burden on the residents of a facility that receive dialysis when they must leave the facility to travel a distance away for dialysis treatment. Also speaking on behalf of Independent Home Dialysis was Wilhelmina Cager. She informed the Board that as the concept of this type of service was being explored she visited a facility in Illinois which provided this type of service and seven Tennessee residents were being treated there due to no availability of these types of services in Tennessee. Ms. Cager gave further explanation of how the nursing home would need to be set-up to provide this level of care i.e. den and bedside set-ups and the significance this method of service would provide to a ventilator patient in the nursing home. Discussion ensued between Independent Home Dialysis representatives and the Board on how service would be provided, the types of residents the service would be provided to, equipment to be used, and the need for the service. Ms. Marlar questioned the number of nursing home providers willing to partner with Independent Home Dialysis and the responsibility of the nursing home in this proposed scenario. Ms. Reed again stated the reason for this item coming to the Board was for

determination of where in the licensing spectrum did this type of entity fall, home health agency or end stage renal dialysis clinic. Mr. Breeden questioned how the service was billed for in the Illinois facility. Ms. Cager indicated the dialysis provider billed for the service. At this point, Mr. Marshall recommended moving this item to a standing committee. He felt more stake holders needed to be involved and felt this was closely related to the latest evolution in nursing home services the ventilator units. **Mr. Marshall made a motion to move this item to one of the standing committees of the Board; seconded by Mr. Breeden.** Ms. Reed questioned which standing committee needed to hear this item. Mr. Marshall stated the Facilities Construction and Performance Improvement Issues Standing Committees. Further discussion ensued with it being requested that Independent Home Dialysis bring data to the first standing committee which supports the service need. **The motion was approved.**

Friendship Haven Home for the Aged –

Ms. Reed presented to the Board that this item was previously presented to the Board as a waiver request of the two beds per room regulation and during that presentation the Board requested a deferral of the item so that relative associations for the homes for the aged could be met with, research of the how the regulation for two beds per room were developed, and the life safety surveyors to revisit the facility. The Board members were provided current pictures of the facility's bedrooms. The historical information that was provided to the Board indicated the regulations for the home for the aged licensure type was developed in 1979. At this time, the term institutional home for the aged was used and then changed to homes for the aged in 1988. As this change was made the regulations indicated institutional homes for the aged would be required to meet the portions of the regulations for nursing homes. During this time period, the regulations allowed four beds in a room. This provided rationale for why this facility would have had three beds to a bedroom in the past. Mr. Harmon did provide information that indicates the rooms would accommodate by square footage the three beds. The item was opened for discussion by the Board. Mr. Marshall clarified that at some point in the history of this licensure type and licensed facility four beds were allowed per room. He further asked about the surveyors' recent visit to the facility. Ms. Reed stated they found two beds per room and also determined the rooms had appropriate square footage for three beds. Ms. Hughes-Toombs at this point provided information to the Board that per news media report there are pending criminal charges concerning the owners of this facility. One of the owners of the facility was present, Mr. Machoka. He addressed the Board stating he and his wife were running another home and a case is forthcoming on that matter. Dr. Saunders questioned what the charges are. Mr. Machoka stated accusations of not giving medications to a resident who received hospice services and marks being present on the same resident. He further stated this occurred in 2013. Dr. Saunders asked if Mr. Machoka owned other facilities. He stated no only Friendship Haven. Ms. Marlar questioned the source of these allegations. Ms. Hughes-Toombs stated that a staff member has forwarded a newspaper article to her and voiced concerns about the current residents in Friendship Haven. The department has been told there is no concern regarding the safety and well-being of these residents. Ms. Marlar asked how this facility would go from being licensed for 16 to 24 beds. Ms. Reed stated if the waiver request is approved then the beds would be added to the license and the rule for two beds per room would not be have to be met by the facility. Mr. Marshall asked how the facility went from 24 beds originally to 16 beds. Ms. Reed informed the Board that the facility was previously licensed for 24 beds and then subsequently closed. The facility reapplied for licensure for 16 beds. The Board asked if this type of waiver had been granted before and Ms. Reed indicated to this facility when it was previously licensed. Ms. Marlar wanted reassurances the residents would receive adequate care with the increase of residents per room. Ms. Reed indicated that would be a part of the occupancy survey for the increase in beds. The Board members began discussing a precedence being set by approving this waiver request and opening the door for others to make this request. **Mr. Rhodes made a motion to deny the waiver request**

associated with this discussion i.e. allow three beds per room instead of two; seconded by Mr. Breeden. The motion was approved.

LICENSURE STATUS UPDATE(S):

Ms. Reed presented licensure status updates on the following three facilities; Careall Home Care Services, Knoxville; Pioneer Community Hospital of Scott, Oneida; and Volunteer Women's Medical Clinic, Knoxville. Careall Home Care Services received a second extension for inactive status of the facility license on January 21, 2015 for an additional six months. The facility reopened April 1, 2015 taking the license off inactive status. Pioneer Community Hospital of Scott requested to waive hospital rule 1200-08-01-.06(9)(b) for a certified dietary manager through March 1, 2015. A dietary employee of the hospital assumed the role of dietary manager until the position could be filled. Pioneer gave an update to the Board that the position of Certified Dietary Manager was filled. Volunteer Women's Medical Clinic sought a second extension for inactive status of the facility license for an additional two years. On May 5, 2015, the facility notified this office the facility's license would be closed.

LICENSURE STATUS REQUEST(S):

Ms. Reed presented the three (3) licensure status requests.

Jackson Park Christian Home, Inc.; Nashville –

This is a 28 bed nursing home facility seeking a fourth extension of an inactive status of the facility's license. The request is for an additional 12 months. Signature Healthcare, LLC formally completed the change of ownership process for the license of the facility and requested to continue the inactive status on May 8, 2014. Signature Healthcare, LLC is currently evaluating the best options for the facility going forward. Chris Puri was present on behalf of the facility. **Mr. Shulman made a motion to approve the inactive status request for an additional 12 months until the May 2016 Board meeting; seconded by Mr. Marshall. The motion was approved.**

Associates of Memorial/Mission Outpatient Surgery Center, LLC; Chattanooga -

This is a licensed ambulatory surgical treatment center (ASTC) requesting an inactive status for the facility's license for 12 months due to the departure of several physicians. These physicians sold their ownership interests in the facility and have invested in another surgery center. The hospital has taken over full ownership of the surgery center's ASTC license. The hospital will identify to administrative staff the intent and contractual arrangement with the licensed ASTC to use the space for outpatient hospital surgeries. Dan Elrod was present on behalf of the facility. Mr. Elrod explained the hospital wishes to use the space so not to have an unused asset on their hands. It was clarified for the Board members that the proposed arrangement is allowable under the state and federal requirements. **Mr. Marshall made a motion to approve the inactive status request until the May 2016 Board meeting; seconded by Mr. Shulman. The motion was approved.**

Southern Hills Surgery Center, Nashville –

This is a licensed ambulatory surgical treatment center (ASTC) requesting a seventh extension of the inactive status of the facility's license for an additional 12 months. Since the last extension of the inactive status of the license, the owner has sought new physician investors so the facility can reopen. The facility went before the Health Services and Development Agency (HSDA) in March. This March meeting of the HSDA resulted in the meeting ending prior to the completion of the presentation by Southern Hills Surgery Center for a certificate of need. In light of the circumstances, Southern Hills Surgery Center is diligently seeking another extension of the inactive status of the facility's license. Jerry

Taylor was present on behalf of the facility. Mr. Taylor indicated to the Board that the facility's CON application will be heard at the May HSDA meeting and request the inactive status be extended to the September 2015 Board meeting. **Mr. Rhodes made a motion to approve the seventh extension of the inactive status until the September 2015 Board meeting; seconded by Mr. Breeden. The motion was approved.**

WAIVER REQUEST(S):

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

Brookewood Nursing Center, Inc.; Decatur -

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

Golden Living Center – Springfield, Springfield -

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

Signature HealthCare of Greeneville, Greeneville –

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

Signature HealthCare of St. Peter Villa, Memphis –

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

Whitehaven Community Living Center, Memphis –

This licensed nursing home is seeking to waive nursing home regulation 1200-08-06-.01(1) for a Tennessee licensed nursing home administrator until a permanent replacement can be hired or receives his/her license in Tennessee. **Mr. Breeden made a motion to grant the waiver request until the September 2015 Board meeting; seconded by Mr. Shulman. The motion was approved.**

Blount Memorial Hospital, Maryville -

This is a 304 bed licensed hospital requesting to waive hospital rule 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. Blount Memorial Hospital's outpatient therapy centers' (d/b/a Total Rehabilitation of Blount Memorial Hospital) therapy services are delivered in five Blount Memorial Hospital therapy centers, one is located at the hospital's location. The waiving of the above rules was previously heard by the Performance Improvement Issues (PI) Standing Committee which resulted in development of rule language that was subsequently

approved by the full Board for rulemaking. Ms. Reed also informed the Board that two other licensed hospitals have requested this same regulation waiver. Mr. Joe Black is present on behalf of Blount Memorial Hospital. **Mr. Marshall made a motion to approve the waiver request based on the previous PI Standing Committee recommendation and it is CMS approved; seconded by Mr. Breeden. The motion was approved.**

Cumberland River Hospital, Celina -

Cumberland River Hospital is requesting to waive hospital rule 1200-08-01-.01(36)(c) for the definition of a Critical Access Hospital (CAH). The facility wishes to have an eight bed geriatric psychiatric unit for a total of 33 beds. Patricia Strong, Interim CAO, was present on behalf of the facility. Ms. Strong indicated the hospital is in the process of converting to a critical access designation with a target date of July 1 which would coincide with the facility's cost reporting year. The facility currently has 28 licensed beds, but will be reducing to 25 plus an eight bed geriatric psychiatric unit. **Mr. Marshall made a motion to approve the waiver request; seconded by Mr. Rhodes. The motion was approved.**

Revisit – Friendship Haven Home for the Aged, Chattanooga -

Refer to the Discussion section of the minutes. This 16 bed licensed home for the aged (RHA) is seeking to waive the RHA rule 1200-08-07(18)b which states, "No bedroom shall have more than two (2) beds". Friendship Haven was previously licensed for 24 beds and wishes to utilize all 24 beds again, but will need to place more than two beds per room to reach 24 beds. David Machoka, President, was present on behalf of the facility. **Mr. Rhodes made a motion to deny the waiver request; seconded by Mr. Breeden. The denial 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.

Board Policy #32 requests –

- Bradley Healthcare & Rehabilitation Center, Cleveland
- Briarwood Community Living Center, Lexington
- Christian Care Center of Rutherford County, Smyrna
- Dyersburg Nursing and Rehabilitation Inc., Dyersburg
- Savannah Health Care and Rehabilitation Inc., Savannah
- Somerfield at the Heritage, Brentwood
- Spring City Care & Rehabilitation Center, Spring City
- Whitehaven Community Living Center, Memphis

Mr. Shulman made a motion to approve the requests for Board Policy #32 waivers to be issued to the above listed facilities; Mr. Marshall seconded. The motion was approved.

NHC Place Sumner, Gallatin

Ms. Lynch recused from the vote on this request for approval under Board Policy #32. **Mr. Shulman made a motion to approve the request for Board Policy #32 waiver to be issued to the above listed facility; Mr. Marshall seconded. The motion was approved.**

Ms. Lynch returned to the meeting.

Board Policy #39 request –

Benchmark Healthcare of Puryear, Inc. (nursing home) and Benchmark Assisted Living, LLC (ACLF), Puryear

Mr. Shulman made a motion to approve the request for Board Policy #39 waiver to be issued to the above listed facility; Mr. Breeden seconded. The motion was approved.

NHC Place Sumner (ACLF and nursing home), Gallatin

Ms. Lynch recused from the vote on this request for approval under Board Policy #39. **Mr. Shulman made a motion to approve the request for Board Policy #39 waiver to be issued to the above listed facility; Mr. Breeden seconded. The motion was approved.**

CONTESTED CASE – LEFT REGULAR BOARD AGENDA ITEMS AT THIS TIME. TRANSCRIPT OF CONTESTED CASE PROCEEDINGS AVAILABLE THROUGH THE OFFICE OF GENERAL COUNSEL.

ORDERS:

Ms. Hughes-Toombs presented the following orders for approval by the Board –

Apple Grove (ACLF), CMP \$2000; Broadmore (ACLF), CMP \$2500; Brookdale @ Cordova (ACLF), CMP \$250; Canterfield of Oak Ridge (ACLF), CMP \$250; Cumberland Ridge (ACLF), CMP \$750; Eagle Crest (ACLF), CMP \$1000; Greenfield of Oak Ridge (ACLF), CMP \$2000; Emeritus @ Kingsport (ACLF), CMP \$1500; Henderson Villa (ACLF), CMP \$250; Heritage (ACLF), CMP \$250; Heritage Place of Lexington (ACLF), CMP \$500; Ivy Crest (ACLF), CMP \$250; Maybelle Carter Retirement (ACLF), CMP \$250; Olive Branch (ACLF), CMP \$250; Optimum (ACLF), CMP \$250; Scharder Acres (ACLF), CMP \$1000; The Lodge @ Wood Village (ACLF); CMP \$250; Meadows @ Halltown (ACLF), CMP \$250; United Regional Medical Center (Hospital); Jamestown (ACLF), CMP \$250. **Mr. Rhodes made a motion to accept all presented orders; seconded by Ms. Lynch. The motion was approved.**

East TN Dialysis was presented to the Board for removal from probationary status. The Board was informed the facility had addressed all requirements of the approved 2013 order. **Mr. Mynatt made a motion to accept the fact East TN Dialysis reached their 12 month probation period and to lift the probation; seconded by Mr. Rhodes. The motion was approved.**

Mr. Rhodes made a motion to adjourn the meeting. Dr. Saunders stated the Board meeting was officially adjourned.