



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: June 12, 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-
Performance Improvement Issue Standing Committee
and the Facilities Construction Standing Committee
(Call-in Number: 1-888-757-2790 passcode: 457462#)

Date of Meeting: June 23, 2015
Time: 9:00 a.m. – 4:00 p.m., CDT
Place: Poplar 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

AGENDA

**BOARD FOR LICENSING HEALTH CARE FACILITIES
PERFORMANCE IMPROVEMENT ISSUE STANDING COMMITTEE
AND THE
FACILITIES CONSTRUCTION STANDING COMMITTEE MEETING**

**JUNE 23, 2015
POPLAR CONFERENCE ROOM, FIRST FLOOR
9:00 a.m. – 4:00 p.m.**

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

Performance Improvement Issue Standing Committee 9:00 a.m. to 11:00 a.m.

1. Call the Meeting to Order and Establish a Quorum.
2. Hospital rule 1200-08-1-.07(4)(a)(b) – Outpatient Services & Dialysis.
3. APN On-Call & Admission Orders Rule Language (follow CMS guidance)
4. Other Discussion(s).
5. Public Comments.
6. Adjourn.

Performance Issue Standing Committee/Facilities Construction Standing Committee 11:00 a.m. to 2:00 p.m.

1. Call the Meeting to Order and Establish a Quorum.
2. Independent Home Dialysis, LLC, Memphis, Licensure Determination Request, End Stage Dialysis Clinic vs. Home Health Agency.

3. Other Discussion(s).
4. Public Comments.
5. Adjourn.

Facilities Construction Standing Committee 2:00 p.m. to 4:00 p.m.

1. Call the Meeting to Order and Establish a Quorum.
2. Approval of Minutes – May 5, 2015 – Facilities Construction Standing Committee Meeting
3. Language Approval for Interpretative Guideline – Assisted Care Living Facility (ACLF) and Home for the Aged (RHA) Disaster Plan, HVAC, and Emergency Generator Regulations 1200-08-25-.16(4) and 1200-08-11-.13(3).
4. ACLF rules 1200-08-25-10(2)(i) – What is considered “cooking appliances”?
5. Other Discussion(s).
6. Public Comments.
7. Adjourn.

**MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
PERFORMANCE IMPROVEMENT ISSUE (PI) AND
FACILITIES CONSTRUCTION JOINT STANDING COMMITTEE MEETING
JUNE 23, 2015**

The Board for Licensing Health Care Facilities' Performance Improvement Issue (PI) and Facilities Construction Joint Standing Committee meeting began on June 23, 2015. Mr. David Rhodes served as chair for this meeting.

A quorum roll call vote was taken:

Mr. Jim Shulman – here
Mr. John Marshall – not here
Ms. Janet Williford – here
Dr. René Saunders – here
Dr. Michael Miller – not here
Ms. Diana Miller – here
Mr. David Rhodes – here
Dr. Kenneth Robertson - here

A quorum was established.

Ann Reed, Director of the Board for Licensing Health Care Facilities, provided background to this joint meeting of the PI and Facilities Construction Standing Committees. The standing committee addressed one item related to a licensure determination request for Independent Home Dialysis (IHD). Is the agency a home health provider or an end stage renal dialysis clinic (ESRD) provider? This request was originally heard at the May 2015 Board meeting at which time the Board requested the joint committee of PI and Facilities Construction to look further at the request. The Board at that time requested the representative of IHD to collect data on the need for their proposed type of dialysis service in nursing homes. A representative of the facility was not able to make the meeting. Ms. Reed refreshed the standing committee members on the method of service delivery by IHD. On a contractual basis, IHD would provide hemodialysis to patients who reside in nursing homes for which transfers to free standing dialysis facilities would be a burden. Dialysis machines used in the home setting would be the type of machines used in IHD's model. Mr. Rhodes asked if residents dialyzed at home are being seen by home health agencies. Ms. Reed responded that ESRD providers have a home training component to their licensure and these patients and family/responsible party are trained at the ESRD's fixed location to perform these functions. Mr. Rhodes further asked if the ESRDs provide this service to nursing homes. Ms. Reed informed the standing committee members that a small number of nursing homes have inquired about the ability to provide hemodialysis services. One nursing home has contracted with an ESRD provider to care for hemodialysis residents with the understanding the nursing home is ultimately responsible for the care of the resident. Diana Miller asked why IHD could not apply for licensure as an ESRD. The facility will not have a fixed location as other licensed ESRDs do. Further, IHD indicated they would do provide all service at the nursing home location and not in an independent location. Dr. Robertson voiced concern over making a decision that would be contrary to the requirements of CMS. He further questioned how the current dialysis provider nursing home relationship is licensed,

monitored, and regulated. Shirley Jones of the West Tennessee Regional Office (WTRO) indicated the nursing homes are regulated by CMS under the federal requirements. The WTRO has not experienced a nursing home with an ESRD provider relationship. Their experience has been with nursing homes providing peritoneal dialysis. Dr. Robertson questioned how it was possible for a nursing home to provide hemodialysis. Kyontzé Hughes-Toombs stated research of the CMS regulations allow nursing homes to be certified to provide dialysis services. Chris Puri, outside legal counsel for Tennessee Health Care Association, verified Ms. Hughes-Toombs' statement. He stated the provision of dialysis services by a nursing home is a sub-type of the ESRD certification. Mr. Rhodes clarified that a home health agency would not be able to provide these services. Ms. Reed indicated the referenced allowances are for ESRDs. Legal counsel stated the licensure definition for ESRD implies a licensee must have a physical location. Much discussion was given to the arrangement between an ESRD and nursing home provider when dialysis is the service to be rendered in the nursing home setting, the actual impediments faced by nursing homes with residents that are receiving dialysis, and the scope of home health services. Ms. Reed questioned under the federal requirements is there a provision which allows a certified ESRD provider to go into an individual's home to perform home dialysis. Ms. Jones indicated that currently there is not any such provision of services in the West Tennessee region. She did state that CMS issued a statement directing ESRDs to have oversight of dialysis services in a nursing home via a contractual relationship. It was further stated the nursing home is the residents' home thus the service falls under the ESRD home program aspect. Mr. Rhodes stated there appears to be an unmet need. Jim Shulman agreed and wondered if other states have experienced this. Ms. Jones indicated via her counterparts in other states that they have nursing homes and ESRDs working together to provide dialysis services in the nursing home environment, but there have been documented problems with this service model. The standing committee members questioned how this was accomplished. Ms. Jones indicated via a contractual relationship by which the ESRD trains and oversees the nursing staff to provide the dialysis service. Dr. Robertson questioned the water safety requirements as it relates to hemodialysis and how this would be met. Dr. Saunders provided information she found on DaVita's website about home hemodialysis services and the use of a contained system to provide the hemodialysis. Ms. Miller questioned if this provider would apply for licensure as an ESRD and then request exemptions to the rules. Ms. Reed indicated this could be a possibility. She further indicated IHD should give further review to the ESRD regulations next to their proposed service model which may result in more questions being raised and requiring response. Mr. Rhodes drilled down the issue to this – could the service being provided and the technology allowing it be provided somewhere other than a building. Dr. Saunders feels this would require possible waivers of current rules or exceptions to the statute. Ms. Hughes-Toombs directed the standing committee members to answer the question of how should IHD be licensed – an ESRD – which based upon the discussion of the meeting and her research this would be the appropriate licensure type, but the requirement for a physical location and training would have to be addressed. Ms. Reed indicated the rules would direct the training requirements. The question then becomes does this satisfy the statute for an ESRD. Ms. Hughes-Toombs stated if the standing committee and ultimately the Board decide IHD should be licensed as an ESRD then legal and administrative staff will need to determine how this can be accomplished. Dr. Robertson stated they should be licensed as an ESRD. Mr. Puri offered to provide further information on dialysis services in the home from those dialysis clients he works with specifically on the business models and arrangement used. Mr. Rhodes indicated it would be appropriate to table the item until another meeting. Additional items of concern need to be explored such as rural vs urban for location, what do other dialysis providers like Davita do, what is the state of the unmet need i.e. stats on the scope of this. The standing committee tabled this discussion for future study.

The official CD recording of the joint standing committee was interrupted at this point.