



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
SECOND AMENDED**

Date: February 23, 2016
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
Meeting
(Call-in Number: 1-888-757-2790 passcode: 457462#)

Date of Meeting: March 29, 2016
Time: 9:00 a.m. – 12:00 noon, CST
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 MEETING**

**MARCH 29, 2016
POPLAR CONFERENCE ROOM, FIRST FLOOR
9:00 a.m. to 12:00 noon**

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

1. Call the Meeting to Order and Establish a Quorum.
2. Approval of Minutes.
3. Revisit-Continued review and discussion of Interpretative Guideline for ‘Adequate Medical Screenings to Exclude Communicable Disease’ language.
4. **Revisit-BLAKEFORD AT GREEN HILLS, NASHVILLE**
This facility is seeking clarification on ACLF Rule 1200-08-25-.06(2)(4) regarding updating current regulations to include electronic posting. Further review of all licensed facility regulations for the specific language prior to developing an interpretative guideline and for provider to bring back an example of their current electronic sign.
Representative(s): Lakecia Harper, Health Services Administrator
5. Revisit-Home Health Agency Rules 1200-08-26-.01(48) and 1200-08-26-.05(4)&(8) – VA physicians, federal exemptions; OGC to opine to what “refer” means in rules and T.C.A.
6. Interpretative Guideline approval for Tennessee Ambulatory Surgery Center Association (TASCA) recommended rule language for ASTC Rule 1200-08-10-.06(2)(g).
7. Other Discussion(s).
8. Public Comments.
9. Adjourn.

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
PERFORMANCE IMPROVEMENT ISSUE STANDING COMMITTEE MEETING
MARCH 29, 2016

The Board for Licensing Health Care Facilities' Performance Improvement Issue (PI) Standing Committee meeting began on March 29, 2016. Jim Shulman served as chair for this meeting.

A quorum roll call vote was taken:

Mr. Jim Shulman – here
Mr. John Marshall – here
Ms. Janet Williford – here
Dr. René Saunders – here
Dr. Michael Miller – not here

A quorum was established.

The first item for discussion was approval of minutes from the last PI Standing Committee meeting on January 12, 2016. Since the minutes were not ready Ann Reed, Director of the Board for Licensing Health Care Facilities, gave a brief summary of that meeting; however, minutes will still need to be approved for that January 12th meeting by the PI Standing Committee.

The second item for discussion was the continued review and discussion of interpretive guidelines (IG) for adequate medical screening to exclude communicable disease language. This also was an agenda item at the December 15, 2015 and January 12, 2016 PI Standing Committee meeting. At the December 15, 2015 meeting a motion was made to table the item so another meeting could be conducted inviting other entities with vested interest in the subject, associations, and other Department of Health members including Dr. Marion Kainer. At the January 12, 2016 PI Standing Committee meeting Dr. Kainer was not able to attend but Dr. John Warkentin attended as well as other entities and associations it was determined that we would need to do a formal meeting with all involved parties plus Dr. Kainer for further clarification on IG. Ms. Reed started the discussion with background information to the item up for discussion and made standing committee members aware of historical information on the issue. Dr. Kainer spoke to the standing committee and discussed new Centers for Disease Control and Prevention (CDC) guidelines that are forth coming and thought it would be better to make major changes with receipt of new guidelines as well as look at scope of testing (i.e. upon hiring and for ongoing). Dr. Kainer suggested using the 1998 HIPAC guidelines for health care workers which has a table containing infections health care workers should be screened for and to test/screen upon hire and annually and to have mechanisms in place to determine level of illness/infections during and throughout time working and between screenings for health care workers. Dr. Kelly Moore who is also with the Department of Health spoke to the standing committee on the Advisory Committee on Immunization Practices (ACIP) and provided a handout of recommended immunizations for health care workers. She stressed that the Meningococcal vaccine is for lab workers not direct care workers. Dr. Moore also stated there are no subsidized programs for adults but there are for children. She further stated that the influenza vaccination is the only vaccine given more than once. John Marshall indicated language changes should address ancillary staff such as housekeeping etcetera due to potential for needle sticks.

Mr. Shulman wanted to know how to accomplish a living document for guidance and suggested waiting on CDC update. Dr. Kainer then suggested adopting as interim old CDC guidelines which will be replaced with new guidelines once the CDC does their update. Dr. René Saunders feels current IG allows following of CDC guidelines but facilities want specific infectious diseases identified. Ms. Reed indicated original discussion before Board focused on Tuberculosis (TB) and CDC guidelines with universal precautions identified as the means to address other infectious diseases. Dr. Kainer with Dr. Moore could develop a 'cheat' sheet for use and implementation with the current IG. Dr. John Warkentin spoke to the standing committee on TB and screening requirements to meet the regulation for 'adequate'. He stated that CDC guidelines allow states flexibility in interpreting the CDC guidelines. Dr. Warkentin suggested developing guidance for the PI standing committee and it could be completed in about two (2) weeks. He stated this was done for Department of Mental Health and that work could be built upon and used to develop guidance as an interim document. Mr. Shulman suggested using as a living document that can be updated going forward as changes occur. The PI Standing Committee agreed and wants to have this document developed. Dr. Warkentin said it would be helpful to have any survey tool used by surveyors to review TB in the development process. Dr. Saunders stated a standardized guidance is needed for all facility types which may be stratified based upon the acuity of care provided in the facility as well as federal regulations which may trump state requirements. Melanie Keller with the Tennessee Association for Home Care addressed the standing committee stating she has an issue with immunization records being required. She polled her staff aged forty-five (45) and older and this staff did not have immunization records. She also asked what should be done for staff that refuses to be immunized. Ms. Keller also suggested creating age limit requirements for the requirement of immunizations. If there is a requirement for vaccinations there should be a timeframe given to reach compliance. Ms. Keller suggested doing a Hepatitis B vaccination or titer, TB skin test, and the completion of a communicable disease screening based on exposure and symptoms. Dr. Moore indicated there is a means in place to provide all vaccines which have been discussed and which are cost effective. Ms. Gayla Sasser with the Tennessee Association for Home Care suggested tying type of requirements to professional licensure. Dr. Saunders indicated the Medical Board is directed by laws which do not require a tie between professional licensure and a receipt of vaccinations. Dr. Kainer told the standing committee about TENNIIS which is an immunization registry that is available in Tennessee. It is a lifelong registry that all can see but you must register for it and it is voluntary reporting of immunizations. It was established in the 1990s to provide documentation and is recommended for use by surveyors and facilities. Karen Wills with the Department of Intellectual and Developmental Disabilities addressed the standing committee and reiterated concerns of vaccination requirements. She further stated that the focus has been on TB because it is quantifiable. The requirement for vaccines may lead to issues of which ones and then to refusals. Ms. Wills asked what are the requirements for policy for an agency on how to address infection when it occurs. She suggested creating guidance that is quantifiable. Ms. Wills further stated that population served would not react well to providers wearing masks. Dr. Moore addressed Ms. Wills concern by stating staff with contraindications to a vaccine should have proper documentation on file including a plan to address their specific situations. She stated refusal situations should be handled by employer. Natalie Silvas with the Tennessee Ambulatory Surgery Center Association (TASCA) addressed the standing committee and voiced her concerns about contracted/credentialed individuals who are not employed by the facility. Dr. Kainer addressed Ms. Silvas' concerns by clarifying HIPAC guidelines as having broad definition of health care worker which means anyone entering the facility. She further stated the HIPAC definition of health care worker would be those with direct patient care. Linda Estes with Tennessee Health Care Association (THCA) addressed the standing committee and stated that THCA would be able to review document put forth by communicable disease section but wondered who comments should be made to. Kyontzé Hughes-Toombs stated the document may be shared with all interested parties

once it is received. Mr. Shulman gave a brief recap stating that the Communicable Disease Section of the Department of Health would provide guidelines and then provide those guidelines to Ann Reed who would then forward to interested parties with a timeframe for comments bringing these comments back to another meeting. **Dr. Saunders made a motion to defer this item until the next PI meeting to have documents (a cheat sheet) drafted by the Communicable Disease Section of the Department of Health for IG on 'adequate medical screening'; seconded by Mr. Marshall. The motion was passed.** Ms. Hughes-Toombs clarified the purpose of this discussion has been to determine what 'adequate medical screening' is. She is not certain the Department of Health has the authority to mandate vaccination of healthcare workers.

The third item for discussion was to revisit Blakeford at Green Hills, Nashville, seeking clarification on ACLF rule 1200-08-25-.06(2)(4) regarding updating current regulations to include electronic posting. This was also an agenda item at the January 12th PI Standing Committee meeting. Ms. Reed provided to the standing committee reference to four (4) additional facility type regulations for signage and postings. Ms. Hughes-Toombs indicated statute does not limit to sign on wall and may be electronic. Blakeford's representative, Lakecia Harper, addressed the standing committee and provided an example of signage in electronic format that was in the facility. Mr. Marshall stated that posting is 'visible' at all times and that electronic posting does not satisfy the requirement stating that the example provided by the facility representative is really not posted. The question is what does 'posting' mean. Janet Williford stated a patient's family may miss information on the electronic medium. Chris Puri, attorney for Tennessee Health Care Association (THCA), addressed the standing committee and stated he could not find statutory requirement. He stated the FLMA regulation states, "electronic posting...". Mr. Puri stated the statute does not prohibit electronic posting. THCA brought a recommendation for an IG for 1200-08-25-.06(4) to the standing committee. The recommendation indicates that paper copies would be given on admission to the resident and or family representative and a notation that a paper copy is available in the facility. Mr. Marshall supports electronic signage posting but has a concern over intermittency. **Dr. Saunders made a motion to not have any changes to the rule in question and let it stand as is which includes electronic in addition to being a posted sign on the wall; seconded by Mr. Marshall.** Mr. Shulman asked if IG is needed. Ms. Reed stated it is preferred with Ms. Hughes-Toombs suggesting an IG as well. Ms. Hughes-Toombs stated the IG should address either 'posting' and/or 'sign'. Ms. Hughes-Toombs suggested an IG to read that posted means a physical posting on a wall. For purposes of the rule, electronic display does not constitute being posted. Mr. Marshall withdrew his support stating that electronic means of posting is not technically posted. **The motion put forth by Dr. Saunders was defeated.** Mr. Puri suggested as a motion, **for the purposes of this rule, electronic posting does not meet the intent of the term posted; Mr. Shulman made this motion; seconded by Mr. Marshall. The motion was approved.**

The fourth item for discussion was a revisit of home health agency rules 1200-08-26-.01(48) and 1200-08-26-.05(4)&(8) regarding VA physicians, federal exemptions; OGC to opine to what 'refer' means in rules and T.C.A. This item first appeared on the Board's May 6-7, 2015 agenda the item was tabled due to the representative, Patricia Elliot, being unable to attend. It was then added to the Board's September 18, 2015 agenda however Ms. Elliot was unable to attend that meeting and the Board felt it was important to hear from the representative and have more background done so the item was deferred to January 2016 Board meeting. At the January 14-15, 2016 Board meeting, it was determined that there would not be a need for a two (2) day meeting so representatives that were on the agenda were contacted via phone and email to call into the meeting since the second day of the Board meeting was cancelled; however, Ms. Elliot was not able to be reached so the item was tabled and moved to the next PI Standing Committee meeting. Ms. Reed started the discussion by giving a brief background of

the issue and she also referenced documents that were uploaded to the Ipad from other states i.e. Washington and New York rules and regulations on the subject. Ms. Elliot addressed the PI standing committee via telephone and explained the circumstances of her sisters and husband receiving care by VA physicians at VA clinics but the VA medical doctor's (MDs) not being able to provide care via home health agencies in Tennessee if the MD is not licensed in Tennessee. The issue first arose around 2014 and the state legislator helped Ms. Elliot to get in contact with Office of Health Care Facilities. Ms. Hughes-Toombs read T.C.A. 68-11-204 which exempts Office of Health Care Facilities from having authority over federal facilities which would also include staff employed by the federal government. A non-federally employed MD would have to meet definition for physician in Tennessee. Dr. Saunders referenced the definition of MD/physician in the home health agency regulations. Ms. Reed requested an IG of the physician definition for surveyors and providers. The IG should state VA physicians are exempt and can write orders in Tennessee. Mr. Shulman asked Ms. Hughes-Toombs what/how IG should be worded. Ms. Hughes-Toombs feels statute makes VA/federal physicians exempt from the home health agency rules and regulations. **Dr. Saunders made a motion for physicians licensed in the state of Tennessee and exempt from T.C.A. 68-11-204 may write orders for a home care organization providing home health services; Mr. Marshall seconded.** Mr. Puri stated a flip of the motion should be made to focus on the home health agency and not the practice of medicine. **Dr. Saunders withdrew the motion. Dr. Saunders made another motion that home health agencies may accept referrals and orders from Tennessee licensed MDs and MDs found exempt under T.C.A. 68-11-204; Mr. Marshall seconded. The motion was approved.**

The fifth item for discussion was the approval of Tennessee Ambulatory Surgery Center Association (TASCA) recommended rule language for ASTC rule 1200-08-10-.06(2)(g) and interpretative guideline. Ms. Natalie Silvas addressed the standing committee stating she would like the example that was provided to the standing committee to be used; however, the spelling of Ryanodex was incorrect and requires correction in the recommended language. **Mr. Marshall made a motion to approve the language (rule and IG) that was presented to the PI Standing Committee; Ms. Williford seconded. The motion was approved.**

Ms. Estes asked if the VA physician usage and language was found in other facility rules and regulations. She requested for other facility type rules and regulations to be reviewed for this language.

Mr. Shulman adjourned the standing committee meeting.