

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
MARCH 8, 1989

The meeting of the Board for Licensing Health Care Facilities was called to order by the Chairman, Dr. Peggy Alsup. Other Board members present were:

James Kelly Avery, M.D.
James Ayers
Ronald G. Bonnett, D.M.D.
Thelma Dickerson, R.N., Ed.D.
L.D. Elliston, D.O.
James T. Galyon, M.D.
Wayne Heatherly
Tom Hicks
Ben G. Hilbun
Edward Perdue
Emily Wiseman
Carney Wright.

Assistant Commissioner William Penny and Attorney Mary Hausman, Office of General Counsel - Tennessee Department of Health and Environment, were present.

APPROVAL OF MINUTES OF NOVEMBER 16-17, 1988 BOARD MEETING

The minutes were approved as circulated.

NEW BOARD MEMBERS

Dr. Alsup announced that two new Board members had been appointed. They are Dr. Ronald Bonnett and Mr. Gene Clark. The Chairman also stated that a letter of appreciation will be sent to Mr. John Dodson, who has been replaced by Mr. Gene Clark.

Dr. James T. Galyon was elected Secretary of the Board by acclamation.

Dr. Galyon then presented Mr. Les Brown, newly appointed Director of Health Care Facilities, a plaque for many years of dedicated service as Director of the Board.

CONTESTED CASES

New Hope Residential Home, Leoma

Mrs. Hausman explained that New Hope Residential Home is appealing the Board's refusal to this facility for a license to operate a residential home for the aged. Mr. John Connors was present from the Administrative Law Division to preside over this case. Mr. Charles Doerflinger, attorney, represented New Hope Residential Home.

Mr. Doerflinger explained that Mrs. Jean Lawson, owner of New Hope Residential Home for the Aged (RHA), has a totally new facility now. He recapitulated

that in May of 1988, the physical plant was approved. However, new regulations were promulgated in October 1988. Hence, there are some changes that are necessary for this facility to meet current regulations. Mr. Doerflinger proposed that all residents be removed from the facility and during this time, the facility should be inspected. If this Department approves and licenses the facility, the appropriate type of resident would be placed in that home by the Department of Human Services. This would eliminate having mental health patients in this type of home except under certain circumstances. This inspection approach would give the Board the opportunity to investigate deficiencies in the physical plant and the residents would not have to be considered.

Mr. Doerflinger also suggested that the Board delegate one of its members the authority to take action on the Board's behalf so as to inspect the facility and/or grant licensure for a residential home for aged.

Mrs. Hausman contended that eight out of the nine residents in this facility take antipsychotic medications and appear to be mental health residents. She stated that the facility needs to make other improvements. Counsel Hausman recommended that the Board should make it very clear that there has not been any promise or guarantee made that a license will be granted at some time in the future. She explained that this facility was licensed for a number of years by the Department of Mental Health. There was a fire. The Department of Mental Health refused to issue a new license. Subsequently, an outstanding criminal warrant was taken out by the Department of Mental Health against the owner.

The Chairman advised that the question before the Board is whether or not this case should be heard by the Board today.

Dr. Galyon then made a motion for:

DR. ALSUP, IF SHE IS WILLING, TO ACCEPT THE RESPONSIBILITY OF HEARING NEW HOPE RESIDENTIAL HOME'S REQUEST FOR A LICENSE AND TO ACT ON BEHALF OF THE BOARD.

In addition, Dr. Galyon explained to the attorney, representing the institution, that the selection and care of the residents are considered as important as the physical plant - when granting a license to these types of facilities.

The motion was seconded by Dr. Avery.

Comments and Discussion:

Mr. Hilbun asked why it has taken so long to place the eight residents out of New Hope RHA, and also why the Department continues to let these people stay in an unlicensed facility.

Mrs. Hausman iterated that our hands are tied. The Department of Health and Environment cannot sign a warrant charging the proprietor of New Hope RHA with operating an unlicensed home for the aged because this Department feels that the owner has, at present, an unlicensed mental health facility. The Department of Mental Health has taken out a criminal warrant against this facility because of operation of an unlicensed mental health facility. The decision regarding this warrant is being held in abeyance pending the

Department of Health and Environment's determination regarding New Hope's RHA licensure application. One of the benefits for deferring action today is that the residents will at least be properly placed.

Mr. Doerflinger assured the Board that in the case where New Hope RHA is the financial benefactor of a resident's funds, this money will follow the resident.

There was no further discussion on this motion.

The motion for Dr. Alsup to act on behalf of the Board in the case of New Hope Residential Home carried unanimously.

TRAUMA CENTER DESIGNATION

On behalf of Saint Thomas Hospital, Nashville, Mrs. Terri Jones requested that St. Thomas Hospital be designated as a Level II Trauma Center.

Dr. Kelly Avery recused himself from voting on this request.

MR. HILBUN MADE A MOTION:

THAT SAINT THOMAS HOSPITAL, NASHVILLE, BE DESIGNATED AS A LEVEL II TRAUMA CENTER AND THAT THE ONE-YEAR WAITING PERIOD FOR THE DESIGNATION BE WAIVED.

Mr. Heatherly seconded the motion. The motion was carried. St. Thomas Hospital in Nashville is now a Level II Trauma Center.

On behalf of Baptist Hospital, Nashville, Mr. John Oliver requested that Baptist Hospital be designated as a Level II Trauma Center. Mr. Oliver also requested that the one-year waiting period for that designation be waived.

DR. DICKERSON MADE A MOTION:

THAT BAPTIST HOSPITAL OF NASHVILLE BE DESIGNATED AS A LEVEL II TRAUMA CENTER, AND THE REQUIREMENT FOR A ONE-YEAR WAIT FOR THAT DESIGNATION BE WAIVED.

Dr. Avery seconded the motion.

The motion carried unanimously. Baptist Hospital is designated as a Level II Trauma Center.

REPORTS TO THE BOARD

Claiborne County Hospital, Tazewell

Mrs. Patricia Gray represented Claiborne County Hospital. She reported on the hospital's progress in recruiting an obstetrician and in providing prenatal services.

At the Board meeting in February 1988, Mrs. Gray recounted that two physicians had been recruited to hopefully deliver obstetrical services. One of these physicians has expressed an interest in practicing obstetrics. But her (the physician's) greatest drawbacks are inability to pay malpractice

insurance and no physician to act as back-up. The hospital cannot help this physician pay malpractice insurance.

Mrs. Gray explained that when necessary, deliveries have been performed in the emergency room by an emergency room physician. Problem deliveries are transported to Knoxville.

Dr. Galyon moved:

THAT THE CLAIBORNE COUNTY HOSPITAL BE DIRECTED TO CONTINUE ITS EFFORTS TO RECRUIT AN OBSTETRICIAN AND THAT A REPRESENTATIVE OF THE HOSPITAL MAKE A REPORT BACK TO THIS BOARD WITHIN ONE YEAR TO LET THIS BOARD KNOW FURTHER ABOUT ITS RECRUITMENT EFFORTS.

Dr. Elliston seconded the motion.

In addition, the Chairman suggested that the hospital enhance its involvement with the prenatal clinic as recommended by the Task Force on Obstetrics.

The motion carried unanimously.

Meharry-Hubbard Hospital, Nashville

The Chairman reported that this facility was surveyed on January 6, 1989. No major deficiencies were found. The Board accepted the report.

Family Planning Clinic for Reproductive Health, Nashville

Mrs. Cora Jackson, Regional Administrator for Middle Tennessee, reported on this facility. In June of 1988 the license of Family Planning Clinic was summarily suspended. The Health Care Facilities Staff conducted a resurvey in December 1988, and found the administrator of this facility and the staff had changed. The clinic was renamed "The Women's Health Clinic". At this time, staff has found no deficiencies. The facility is in full compliance with the rules and regulations of this Board.

Dr. Alsup explained that as a result of these findings, an Agreed Order was executed between the facility and this Department. The Chairman was directed to act in lieu of the Board in the matter of the Agreed Orders.

Mr. Hilbun moved:

THAT THE AGREED ORDER BETWEEN THE FAMILY PLANNING CLINIC FOR REPRODUCTIVE HEALTH AND THIS BOARD BE ACCEPTED.

Mr. Heatherly seconded the motion. The motion carried unanimously.

Charlotte Avenue Medical Center, Nashville

Dr. Alsup reminded the Board that this facility was found to have deficiencies in November of 1988. An Agreed Order was executed. The Board allowed the facility to continue to operate with the understanding that progress would continue towards correcting deficiencies.

On February 24, 1989, a resurvey by this staff disclosed serious deficiencies in the Charlotte Avenue Clinic.

Some deficiencies involved lack of record keeping, no pathology reports, disregard for fire safety regulations, no adequate policy and procedure manual, and absence of nurses at the facility.

Dr. Alsop reported that she toured the facility and found many deficiencies. Some of them were:

- No policies providing for quality assurance, infection control, personnel accountability.
- Lack of credentials to show training; experience of physicians and nurses.
- Premature discharge of patients.
- Uncleanliness throughout the facility.
- Term of Agreed Order has not been kept.

Based on findings that were found, the Chairman recommended that the facility discontinue operation until the terms of the Agreed Order could be met.

The owner agreed to voluntarily close the clinic.

Discussion:

Mr. Brown recounted that the facility was first inspected in November 1978. The facility has been inspected at least once a year since 1978, sometimes twice, and there were some deficiencies. However, deficiencies found recently are extensive.

Attorney Monica Edwards, counsel for the clinic, requested that the terms of the Agreed Order executed on February 24th of this year continue.

Dr. Galyon asked why the previous Agreed Order was not met.

Mr. Ferrell, the owner and administrator of Charlotte Avenue Medical Center, said that he continued to make corrections and operate simultaneously. This was a mistake. The staff of the clinic could not correct the deficiencies and continue to operate. Closing the clinic was therefore necessary.

Mr. Hilbun asked whether the facility should relinquish its license to operate and reapply for licensure when it comes into compliance.

Attorney Hausman advised that as long as the facility is out of compliance with requirements and the facility is not operating, the Board has control over the clinic's activities. However, if representatives of the clinic were to surrender the license, the Board would have less control over what goes on. Counsel Hausman further advised that it would be better, in this situation, for the Board to continue working with this facility as long as the owner

understands it is his (the owner's) responsibility to remain closed until this Department returns to inspect every single phase of the clinic's activities.

Mr. Hicks requested that the Health Care Facilities staff examine the plan of correction and make sure that what Mr. Ferrell plans to do brings the clinic into compliance.

Dr. James Galyon maintained that continuous monitoring of the facility is necessary.

The Chairman recognized Mr. W.Z. Baumgartner, Jr., president of the Christian Action Council. Mr. Baumgartner then requested to withdraw his remarks, but asked to be notified of any hearings involving this facility.

The Chairman also recognized Attorney Thomas Nelms, who is presently involved in litigation involving this clinic and its owner. Mr. Nelms said he would like to postpone his request to speak until the next meeting.

Dr. Galyon then moved:

THAT THE CHARLOTTE AVENUE MEDICAL CENTER CONTINUE UNDER THE TERMS OF THE AGREED ORDER, WHICH REQUIRES THAT THERE BE NO OPERATION OF THIS FACILITY UNTIL SUCH TIME AS STAFF HAS DECIDED THE CLINIC COMPLIES FULLY WITH THE RULES AND REGULATIONS OF THIS BOARD AND FURTHER AFTER RESUMING OPERATION OF THE FACILITY THAT STAFF MONITOR THE CLINIC PERIODICALLY AND REPORT BACK TO THIS BOARD AT AN APPROPRIATE TIME.

Mr. Wright seconded the motion. The motion carried.

Dr. Avery made a motion:

THAT THE CHAIRMAN BE EMPOWERED TO ACT IN THE BOARD'S STEAD PRIOR TO A BOARD MEETING IN REGARD TO ANY ACTION THAT NEEDS TO BE TAKEN TO PROTECT THE PUBLIC FROM HARM IN THIS PARTICULAR FACILITY.

The motion was seconded by Dr. Elliston and carried unanimously.

Scott County Hospital, Oneida

Mr. Penny delivered the status report on obstetrical services in Scott County Hospital.

Mr. Penny's report:

In June 1988, the Board approved an Agreed Order dealing with obstetric services in this hospital. Scott County Hospital had stopped delivering babies and had requested a Certificate of Need (CON) which was denied. The Board did not grant this hospital a waiver to discontinue obstetric services.

The Agreed Order stipulated that Scott County Hospital would go through intensive recruitment efforts for an obstetrician. Details were outlined concerning obstetrical transfers.

At the present time, Scott County Hospital has retained two physicians who have obstetrical privileges there. The physicians have been delivering babies since January 25, 1989. Transfers are being made as recommended in the Agreed Order.

The Chairman praised the staff of Scott County Hospital for this accomplishment and stated that she would like to see some attention focused on this county for the good work they have done.

The Board decided to conclude the matter concerning the Agreed Order with Scott County Hospital at the next meeting.

University Medical Center Hospital, Lebanon

The Health Care Facilities Survey Team conducted a complaint investigation of University Medical Center Hospital on February 2, 1989. As a result of the investigation, it was found that University Medical Center Hospital, Lebanon, was out of compliance with the rules and regulations of the Board governing hospital transfers.

Summary Statement of Deficiencies Recorded

Licensure Only

Hospital Transfer Regulations

1200-8-13-.01

- (4) The patient was not stabilized prior to transfers as evidenced by: The hospital transferred a patient in "active labor", although the transfer may have posed a threat to the health and safety of the patient or the unborn child.
- (6) A patient in active labor was not provided treatment of the labor nor considered a "Medical Emergency" in accordance with acceptable standards of practice.

1200-8-13-.02

- (1) Medical Screening Required
A woman in active labor was denied treatment in accordance with the Hospital Transfer Regulations.
- (2) Stabilizing the patient - The facility failed to provide for treatment of the labor.

1200-8-13-.03 Inappropriate Transfer

- (1), (3), (4) An appropriate transfer was not made as evidenced by: A physician at the receiving hospital was not contacted. The transferring hospital was not contacted. The transferring hospital did not provide any medical records or copies of the examination and treatment for the receiving hospital. The transfer was not accomplished through qualified personnel and transportation equipment as required during the transfer.

Mrs. Hausman stated that the statute provides the following:

"If the Board for Licensing Health Care Facilities finds that a hospital is violating or has violated this part or a rule pursuant to this part, the Board

shall notify the hospital of its finding and shall provide the hospital a reasonable opportunity to correct the violation."

Because of the language in the statute, "the Board shall notify the hospital of its findings....", it was thought necessary to document this matter on the Board's agenda so that officially if the problem ever recurs, this will document the fact for future reference.

Dr. Alsop iterated and Mrs. Hausman concurred that the Board must agree with staff that there was a violation of the rules and regulations of this Board, which govern hospital transfers.

Some Comments:

Dr. Galyon, Dr. Avery, and Mr. Perdue inquired about the absence of a plan of correction for the following statement in the Summary of Deficiencies and Plan of Correction presented to this Department by the University Medical Center, Lebanon: "However, she further indicated that if she had to do this all over again she would probably handle it the same way."

Mr. Prewitt, attorney for the medical center, explained that what the emergency room physician (who purportedly made the above statement) did not do was - notify the receiving hospital and she did not contact the patient's physician at the time of the discharge. Mr. Prewitt advised that this physician has now been thoroughly acquainted with patient transfer rules and regulations. The hospital has developed policies and procedures in addition to a "form" that the hospital is requiring all emergency room physicians to fill out to ascertain that before the patient leaves this hospital, a receiving facility has been notified, a physician has been notified and all the state regulations regarding transfer of patients have been met. Mr. Prewitt requested that the state accept University Medical Center of Lebanon's plan of correction.

Dr. Galyon then moved:

THAT THE UNIVERSITY MEDICAL CENTER HOSPITAL BE CITED FOR VIOLATING THIS BOARD'S HOSPITAL TRANSFER REGULATIONS AND FURTHER THE PLAN OF CORRECTION THAT HAS BEEN SUBMITTED ON BEHALF OF THIS FACILITY BE ACCEPTED BY THIS BOARD.

Mr. Perdue abstained from voting. The motion carried.

Bradley Memorial Hospital, Cleveland

Mrs. June Huffman, Regional Medical Administrator for East Tennessee, reported that her office received a complaint of a patient with very low blood sugar having to be transferred by ambulance from a nursing home in one county to Bradley Memorial Hospital. The emergency medical service attendants that were with the ambulance stayed with their patient as was their responsibility. However at some point, there was confusion between the doctor who had referred the patient and the doctor who was to receive the patient. The doctor, who was designated as the receiving doctor did not have privileges at the receiving hospital. The Comprehensive Omnibus Budget Reconciliation Act of 1987 (COBRA) regulations and the state regulations had been violated. There was a communications problem. Bradley Hospital received the patient. Then

the Emergency Medical Services (EMS) staff took the patient to Athens before Bradley Hospital had a chance to stabilize him. The patient was initially sent from the nursing home to Bradley Hospital under the care of his own doctor. Purportedly, when the patient reached Bradley Hospital, the doctor whose care he was listed under, was not a member of the hospital's staff. The patient's vital signs were taken, and he was put on oxygen. In the meantime, the EMS crew received a call from their dispatcher to carry the patient to Athens. No physician examined the patient at Bradley Hospital, and no medical record was made there.

There was much discussion from Board members regarding why the patient was not stabilized at Bradley Hospital.

Mr. Heatherly, Dr. Elliston and Mrs. Wiseman inquired about why the patient was not seen by the emergency room doctor.

Dr. Avery commented that sometimes the emergency room doctor's roll is obscure therefore encouraging situations such as this one to happen.

Mr. Hilbun and Mr. Wright felt that Bradley Hospital should be notified and/or cited for negligence in this case.

Mr. Perdue questioned the transfer procedure from the nursing home.

Dr. Galyon felt that, in this case, the procedure at Bradley Memorial was faulty and needs to be corrected.

Dr. Galyon made a motion:

THAT THERE WAS A VIOLATION OF THIS BOARD'S HOSPITAL TRANSFER REGULATIONS BY BRADLEY MEMORIAL HOSPITAL AND THAT THE DEPARTMENT ACCEPTS THE PLAN OF CORRECTION THAT HAS BEEN SUBMITTED BY THIS INSTITUTION.

Discussion:

Mr. Whitlock, associate administrator of Bradley Hospital, spoke. Among other things, Mr. Whitlock maintained that the patient left the facility before staff at Bradley Hospital knew he was gone. Mr. Whitlock questioned the nature of the investigation by this Department, and focused on how this situation affects the reputation of Bradley Hospital. He said Bradley Hospital received no notice from the nursing home that sent the patient. The first notice was from a radio communication from the EMS. No record was made of this transaction.

Mrs. Hausman advised that the Board has strictly adhered to the requirements of the COBRA regulations in this matter.

Mr. Brown apprised the Board that the complaint investigation for Health Care Financing Administration (HCFA) and the complaint investigation for Tennessee Department of Health and Environment (TDHE) were done simultaneously. Dr. Elliston suggested that the Department may need to investigate this case further.

Dr. C. Dewayne Knight, medical director of Bradley Memorial Hospital, spoke about the lack of proper communication between the nursing home, the hospital and Emergency Medical Services.

The motion made by Dr. Galyon that the Board notify Bradley Hospital of a violation by the facility of the Board's Hospital Transfer Regulations was carried. The vote count registered eight in favor and four opposed.

The Chairman advised that it is appropriate for this Board to send a letter to EMS asking for an explanation of the circumstances and the involvement of EMS in this situation.

Dr. Alsup stated that the Department is going to ask that a second look be given to the nursing home's possible violation. But today's agenda only deals with the hospital's involvement.

Mr. Heatherly commented on the hospital's intent as it relates to this violation.

Dr. Alsup elaborated that there may be some legal ramifications of intent, but in the interest of protecting the public from harm, the Board deals more with outcomes.

Facilities That Are Licensed as General Hospitals But Do Not Provide Obstetric Services

In November of 1988, the Board directed staff to request that representatives of certain hospitals, not delivering obstetric services, appear before the Board. The reason for this request was to gather information from hospital representatives regarding obstetrical services in their particular catchment areas, information about utilization patterns and anything that might bear upon the hospital's requirement to deliver obstetric services.

Benton Community Hospital, Camden

Mr. Jim Donovan, Administrator of Benton Community Hospital, represented this facility. Mr. Donovan related that the reason that this hospital does not provide obstetric services is that the hospital has not been able to recruit a physician. In 1986, staff had one emergency delivery in the delivery room. Three months ago two patients were transferred to another county for delivery. There is no prenatal care program in this county. Patients desiring obstetric services travel to nearby counties.

Dr. Galyon suggested and Dr. Alsup concurred that Benton Community Hospital should establish some sort of liaison with the public health department to provide prenatal services, and also should establish a plan to take care of high risk pregnancies in the emergency room.

Bledsoe County General Hospital, Pikeville

Mr. Gary Burton represented Bledsoe County General Hospital. Mr. Burton stated that a baby has not been delivered in Bledsoe County Hospital since June of 1983. The staff at the hospital is now looking for a physician to

perform obstetrics. Patients desiring obstetric services travel to adjoining counties.

Jackson County Hospital, Gainesboro

Mr. Jim Self, Administrator, represented this hospital. He stated that only one delivery (an emergency delivery) had been performed in this hospital in the last three years. This community does not have a physician willing to perform prenatal care. Patients needing prenatal care and obstetric services travel to other counties for that purpose. This hospital does not have a transfer agreement with hospitals in other counties; however, transfers are made. Any emergency deliveries will be done in this hospital. Members of the staff at Jackson County Hospital are continuing to try to recruit a physician to perform obstetric services, and are hoping to keep obstetric services at the hospital. The health department in Gainesboro does provide some prenatal care.

Macon County Hospital, Lafayette

Mr. Dennis Walters represented the Macon County General Hospital. He stated that obstetric services were unofficially discontinued in January 1984 when physicians at the hospital announced they were discontinuing obstetrics in their practices. At this time, no effort was made to request discontinuance either through the Health Facilities Commission (HFC) or the Board for Licensing Health Care Facilities. A request for a Certificate of Need (CON) was prepared and submitted in November of 1986. The HFC voted to defer action on the CON and indicated that a study would be conducted under the auspices of the Board for Licensing Health Care Facilities on this issue. Attempts to attract a physician to perform obstetric services have been unsuccessful. Most mothers from Macon county deliver at University Medical Center or Humana McFarland in Lebanon, Tennessee. The health department in Macon County does provide some prenatal care. In addition, two doctors come on alternating Wednesdays to their offices in Lafayette to provide prenatal care.

Sequatchie General Hospital, Dunlap

Attorney Mike Engle, Mrs. Polly Darnall and Mr. Paul Farmer represented Sequatchie General Hospital. Mr. Engle presented the report.

The last two babies were delivered at this hospital on October 5, 1985. The last doctor performing obstetric services has discontinued obstetrics due to the rising cost of malpractice and the small volume of obstetrical cases in this county. The health department does not provide prenatal care in Sequatchie County. The Whitwell Medical Center, the nearest hospital, provides some prenatal care. Sequatchie General Hospital has a transfer agreement with Erlanger Medical Center. The staff at Sequatchie General feels that the small volume of obstetric patients to be served by this hospital precludes the feasibility of recruiting an obstetrician.

Wayne County General Hospital, Waynesboro

Dr. Donald Polk, family practitioner, represented Wayne County General Hospital. He stated that the bulk of deliveries for mothers living in the vicinity of the hospital, is performed in Florence, Alabama. Wayne County

General Hospital is expecting a physician in July who has consented to practice obstetrics. There is no written contract with other hospitals. The hospital is prepared to perform emergency deliveries. The hospital administration has invited Ray Davis, physician recruitment person for the state of Tennessee, to help with recruitment. Mr. Ray Davis spoke with the administration about Wayne County General Hospital being a site for a residency program. One big issue discussed is the loan repayment program. This hospital administration is trying to promote a spirit of cooperation between the public health sector and private practitioners.

WAIVER REQUESTS

Coffee Medical Center Nursing Home, Manchester

Coffee Medical Center is requesting a ninety (90) day extension of a waiver that was granted in August of 1988. The request was made due to illness of the administrator.

Mr. Perdue made a motion and Mr. Heatherly seconded the motion:

THAT THE WAIVER REQUEST, MADE ON BEHALF OF COFFEE COUNTY NURSING HOME, BE GRANTED WHICH WOULD ALLOW A NINETY (90) DAY EXTENSION AND WOULD PROVIDE THAT THE DIRECTOR OF NURSING ASSUME THE ADMINISTRATIVE DUTIES UNTIL SUCH TIME AS THE ADMINISTRATOR CAN RETURN OR UNTIL SUCH TIME AS ANOTHER LICENSED ADMINISTRATOR CAN BE OBTAINED.

Hardin Home Nursing Home/Park Rest Hardin County Health Care Center, Savannah

This facility is requesting permission to operate the nursing home and the health care center under one administrator.

Dr. Elliston moved and Mr. Heatherly seconded the motion:

THAT THE WAIVER REQUEST, ON BEHALF OF HARDIN HOME NURSING HOME AND PARK REST HARDIN COUNTY HEALTH CARE CENTER, BE GRANTED. THIS WAIVER WOULD PERMIT ONE LICENSED ADMINISTRATOR TO BE RESPONSIBLE FOR BOTH FACILITIES.

The motion carried unanimously.

Obion County Rest Home, Union City

This rest home is requesting a waiver that would permit it to be without a licensed administrator until the nursing home administrators' test is given in March. At present, the county executive is acting as administrator.

Mr. Wright made a motion and Mr. Hilbun seconded the motion that:

THE WAIVER REQUEST MADE ON BEHALF OF OBION COUNTY REST HOME BE GRANTED. THIS WOULD PERMIT THREE (3) MONTHS FOR THE PERSON, WHO HAS BEEN HIRED AS THE ADMINISTRATOR, TO BECOME LICENSED.

The motion carried unanimously.

Park View Medical Center Rehab Center, Nashville

This hospital requested a waiver that would allow a pet therapy program in the rehabilitation center. The protocol was submitted and reviewed by the Chairman and found to be appropriate.

Mr. Wright moved and Dr. Avery seconded the motion:

THAT THE WAIVER REQUEST, WHICH WOULD PERMIT A PET THERAPY PROGRAM AT THE PARK VIEW MEDICAL CENTER REHABILITATION CENTER, BE GRANTED.

The motion carried unanimously.

Patricia Neal Rehabilitation Center, Fort Sanders Regional Medical Center, Knoxville

This rehabilitation center is requesting a waiver which would permit a pet therapy program at Fort Sanders Regional Medical Center, Knoxville. The Chairman has reviewed the protocol for the pet therapy program and found it acceptable.

Mr. Hilbun moved and Dr. Elliston seconded the motion:

THAT THE WAIVER REQUEST, WHICH WOULD PERMIT THE ESTABLISHMENT OF A PET THERAPY PROGRAM AT THE PATRICIA NEAL REHABILITATION CENTER, FORT SANDERS MEDICAL CENTER, BE GRANTED.

The motion carried unanimously.

Marshall C. Voss Nursing Home,, Harriman

This nursing home would like to have an adult day care program in its facility. Mr. Terry Goode, administrator, said that their staff had not decided definitely whether to have demented patients, but the facility would not be adverse to taking patients with early stages of Alzheimer's disease. Dr. Galyon made a motion and Mr. Heatherly seconded the motion:

THAT THE WAIVER REQUEST, WHICH WOULD PERMIT THE ESTABLISHMENT OF AN ADULT DAY CARE PROGRAM IN MARSHALL C. VOSS NURSING HOME, BE GRANTED.

The motion carried unanimously.

Dr. Galyon also requested that the Board hear how this program is operating in a year.

Retirement Living Affiliates, Nashville

Retirement Living Affiliates is proposing a 106 bed home for the Aged in Nashville. They presented several waiver requests. The first request concerned having a senior day care facility in the same building as a home for the aged.

The second waiver request was to have six foot corridor widths rather than the eight foot widths as required by the codes.

The third request was to build an institutional home for the aged using a three-story Type Five construction code (a wooden structure). The Health Facilities Type Five construction code is only allowed for one-story buildings.

The Board deferred consideration of the requests, presented by Retirement Living Affiliates, to another meeting to give the builders and developers an opportunity to present some plans.

SUMMARY OF SUSPENSION ORDERS

East Tennessee

Mrs. Huffman reported that Hembree Manor, a residential home for the aged in Knoxville, TN had its admissions suspended on October 5, 1988. When our surveyors visited the RHA on February 21 and 22, 1989, much progress had been made in correcting deficiencies. This Department lifted the suspension of admissions on February 27, 1989.

The case involving Hillhaven Health Care Center, Raleigh, is still pending.

CIVIL PENALTIES

Civil Penalties were assessed against the following facilities:

	<u>Penalty</u>
Bright Glade Convalescent Center, Memphis	C
Eastland Nursing Home, Nashville	B, C, C
Clay County Manor, Inc., Celina	B, B
Belcourt Terrace Nursing Home, Nashville	C
Nashville Metropolitan Bordeaux Hospital	B
- Nursing Home, Nashville	
Covington Manor, Covington	B

Dr. Galyon asked whether a facility that has acquired a certain number of demerits is automatically susceptible to discipline by the Board.

Dr. Alsop relayed that there are several factors to consider before discipline by the Board is considered. "There is no automatic trigger or threshold."

Mr. Brown stated that in all likelihood if repeat civil penalties are assessed too frequently, the Board would be seeing that facility.

WAIVER REQUESTS APPROVED BY STAFF CONTINGENT UPON BOARD CONFIRMATION

The following facilities are asking for a waiver which would permit the director of the nurse assistant training program to have had other than one year's experience in a nursing home.

Wayne County Hospital, Waynesboro
Lexington Manor Nursing Center, Lexington
Covington Manor Nursing Center, Covington
McNairy County Health Care Center, Selmer

Hillhaven Convalescent Center of Huntingdon, Huntingdon
Milan Health Care, Inc., Milan
Etowah Health Care Center, Etowah
Crestview Nursing Home, Brownsville

Mr. Perdue made a motion that was seconded by Mr. Wright for:

DIRECTORS OF THE NURSE ASSISTANT TRAINING PROGRAM AT

WAYNE COUNTY HOSPITAL, WAYNESBORO
LEXINGTON MANOR NURSING CENTER, LEXINGTON
COVINGTON MANOR NURSING CENTER, COVINGTON
MCNAIRY COUNTY HEALTH CARE CENTER, SELMER
HILLHAVEN CONVALESCENT CENTER OF HUNTINGDON, HUNTINGDON
MILAN HEALTH CARE, INC., MILAN
ETOWAH HEALTH CARE CENTER, ETOWAH
CRESTVIEW NURSING HOME, BROWNSVILLE

TO BE ALLOWED TO HAVE OTHER THAN ONE (1) YEAR'S EXPERIENCE IN A NURSING HOME.

The motion carried unanimously.

REGULATIONS

Amendment to Nursing Home Regulations Pertaining to Admission Policies

As a result of discussion at the last Board meeting held in March of 1989, a Task Force was convened by the Tennessee Health Care Association to come up with an alternative suggestion to the recommended amendment to Nursing Home Regulations pertaining to Admission Policies. The Task Force felt:

- (1) That the industry should move forward and prepare to care for patients with communicable diseases.
- (2) Every nursing home should not attempt to care for these patients because they may not have the capabilities to do so.
- (3) The regulation that was proposed which mandates admission of patients with communicable disease is not in the best interest of the health care of nursing home patients nor patients with the communicable disease. The proposal is not needed to comply with the anti-discrimination requirements of Acquired Immune Deficiency Syndrome (AIDS). There are also a number of significant limitations that preclude proper treatment of patients with communicable diseases.

Mr. Ron Taylor proposed that the problem of anti-discrimination can be solved by two points:

- (1) Remove the prohibition on admitting patients with communicable disease.
- (2) Enforce existing regulation concerning discrimination based on the handicapped.

There was much discussion on this issue.

Mr. Ayers argued that the big issue here relates to other communicable disease - not just to AIDS patients.

Dr. Avery also said that the major concern is with other communicable diseases.

The Chairman maintained that this whole matter has precipitated so much debate that the best thing for the Board to do now is to send this issue to a rulemaking hearing to solicit comments from the public and other interested parties, and bring the proposed rule back to the Board.

Our current Tennessee regulation denies admission to nursing homes of patients with communicable diseases (this includes AIDS). Attorney Hausman suggested that a motion be adopted by the Board to avoid repercussions from the Federal sector as a result of denying AIDS patients admission to nursing homes.

Dr. Avery moved and Dr. Galyon seconded the motion that:

THE BOARD TEMPORARILY STAY THE ENFORCEMENT OF THE RULES WITH RESPECT TO THE ADMISSION OF PATIENTS WITH CONTAGIOUS DISEASES TO NURSING HOMES UNTIL SUCH TIME AS REGULATIONS CAN BE PROMULGATED.

The motion carried unanimously.

Dr. Alsup explained that this motion would give some kind of official sanction to what has been going on for many years. In addition, nursing homes can officially continue to admit AIDS patients with impunity.

Dr. Galyon made the motion that was seconded by Dr. Avery:

TO FORWARD THE PROPOSED RULES RELATING TO ADMISSION POLICIES IN NURSING HOMES TO RULEMAKING HEARING.

The motion carried unanimously.

BEDSIDE TESTING IN HOSPITALS

Dr. Avery reported on bed side testing in hospitals.

Dr. Avery: Technology is moving to bring testing procedures closer to the patient than ever before. For example, blood sugar is tested at the bedside. Testing for blood coagulation is performed in the dialysis process, cardiac catheterization laboratories and in open cardiac surgery. Eventhough, there is a regulation that the test be performed by a registered laboratory technician, nurses are frequently performing these tests. To ask a physician or surgeon to accept the liability of not being able to do that test simply because the Department has a regulation that would require that testing be done by a registered laboratory technician is not feasible. A task force has been formed by the Laboratory Licensing Board to deal with this issue.

Dr. Alsup apprised members of the Board that the issue of bedside testing may be brought before them. However, it seems that the definitive resolution will be with Laboratory Licensing.

TRAUMA CENTERS AND TRAUMA SYSTEM IN THE STATE

Mr. Phillips was asked to report on the status of the Trauma Centers and the Trauma System in the state.

Mr. Phillips:

Mr. Phillips recounted that thirteen hospitals have been designated as trauma centers in this state since last August. There are five Level I Trauma Centers and eight Level II Trauma Centers. There are three hospitals which have been initially surveyed as Level II Trauma Centers.

Jackson-Madison County Hospital had a deficiency when this hospital requested Level II designation last summer. This hospital has not communicated with this office since that time.

Bristol Memorial Hospital was surveyed about a year ago as a trauma center, and had several deficiencies. This hospital is in the process of correcting its deficiencies and would like a revisit by mid year. A third hospital has submitted an application, but requested no site visit.

The Pediatric Trauma Center rules will become official the middle of this month, and sometime later the Level III trauma center rules will become official.

Mr. Phillips proposed that a meeting be conducted for all hospitals interested in Level III designation to attend. Information disseminated at this meeting may solve some of the problems on the front end.

Trauma care systems are in place in Memphis, Nashville, Knoxville, Chattanooga and the Tri City areas. Medical control systems are in process in all these areas.

The statewide ambulance run reporting system will be implemented in the next couple of months.

WAIVER REQUEST

Bridgeport Connecticut County School

This institution has submitted a Nurse's Aid Program for approval by the State of Tennessee; however, the Director is not licensed as a registered nurse (as required by state law) in the State of Tennessee. The director is licensed in Connecticut.

Mr. Bonkowski advised that graduates from this school would still have to challenge the Tennessee Nurse's Aid examination.

Mr. Perdue made a motion and Mr. Heatherly seconded the motion:

THAT THE WAIVER REQUEST, WHICH WOULD PERMIT THE BRIDGEPORT CONNECTICUT COUNTY SCHOOL TO HAVE A TRAINING DIRECTOR IN THE STATE OF TENNESSEE, BE GRANTED.

The motion carried unanimously.

Task Force on Hospital Privileges

The Chairman requested that Mr. Ronald Joyner, chief executive officer at Williams Medical Center and presiding officer for the final task force meeting, present the report.

Mr. Joyner began by reiterating that the challenge of the task force as read at the first meeting in July of 1988 by Dr. Alsup was:

"The charge then to this task force is to determine if the public interest is served by granting hospital staff privileges of any kind to chiropractors and to make recommendations to the Board accordingly."

Testimony presented in the meetings basically involved presentations on the efficacy of chiropractic and the charge of the task force.

The final motion as presented in the last task force meeting was:

"It is in the public interest to allow individual hospitals to grant clinical privileges to chiropractors." The result of the vote on this motion was six members of the task force were in favor, and six members of the task force were against the motion. Because there was no majority, the motion failed. There was no new motion. Therefore, the task force has no recommendations.

Dr. Alsup asked Mr. Penny to comment on the status of the privileges for chiropractors.

Mr. Penny advised that now it is clearly up to the Board as to how to proceed on this issue.

Mr. Penny explained that there are four legal proceedings dealing with the chiropractic issue now in process if you don't count the legislative action.

The first one is a petition for a declaratory order which the Board decided to set for a contested case for this June. The issue here is whether the Board can deny staff privileges to chiropractors, and also a statement that the Board is acting in an illegal restraint of trade.

The second proceeding requests that the three physicians of the Board recuse themselves from hearing this matter. Dr. O. Ogrodowczyk filed a lawsuit in Chancery Court actually wanting to disqualify the three physicians on the Board. Since then Dr. Ogrodowczyk filed another lawsuit in which he named the Board and members of this Board to restrain the Board's action of voting on this particular matter as long as the physician members are participating.

As a result of this last lawsuit, Mr. Jerry Taylor of the Attorney General's Office and Mr. Penny agreed that the Board would not take a vote on the chiropractic issue today.

In February, Dr. Ogrodowczyk filed a lawsuit against this Board and three physician members in federal court alleging a civil rights violation in this process. The three physician members are named individually, for a total of two hundred and eighty some odd thousand dollars in damages plus attorney fees. In this particular lawsuit, the Attorney General's office will be representing

the Board and the three physician members. An answer will be filed by the Attorney General in this matter next week.

Mr. Penny suggested that the next meeting would be an opportune time to vote on the chiropractic issue. If the chiropractors are not successful in getting hospital privileges, they would have the opportunity to file for a contested case hearing in August.

Finally, Mr. Hilbun moved that:

THE BOARD ACCEPT THE REPORT FROM THE TASK FORCE DEALING WITH HOSPITAL STAFF PRIVILEGES DELIVERED BY MR. JOYNER AND COMMENTED ON BY MR. PENNY.

The Chairman requested that the Board stand by the advice of counsel in terms of not taking any action today.

The motion carried unanimously.

Wellness Center for Lincoln County

Dr. Avery moved and Mr. Hicks seconded the motion:

THAT THE LINCOLN COUNTY HOSPITAL WELLNESS CENTER BE PERMITTED TO OPERATE REMOTE FROM THE MAIN CAMPUS.

The motion carried unanimously.

The meeting adjourned at 5:00 p.m.

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