



**STATE OF TENNESSEE
OFFICE OF LEGAL SERVICES
HEALTH FACILITIES COMMISSION**

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MEMORANDUM

TO: HEALTH FACILITIES COMMISSION
FROM: Jeremy Gourley, Senior Associate General Counsel
DATE: August 28, 2024
RE: Office of Legal Services Report

Section 1: Litigation

The Office of Legal Services (OLS) has approximately seventy-four (74) cases open and pending (This number includes cases set for trial, to be drafted, pending review, and mailed to facilities). Of the open cases, thirteen (13) Consent Orders have been sent to facilities, and OLS is awaiting a response, leaving an effective open case load of approximately sixty-one (61) active cases as of today's meeting.

There are seven (7) Consent Orders that will be presented during today's meeting:

1. Jeremy Gourley, Senior Associate General Counsel
 - a. Charter Senior Living, ACLF, Lic. No. 270
 - b. Legacy Village of Hendersonville, ACLF, Lic. No. 141
 - c. Lifecare Center of Elizabethton, SNF, Lic. No. 26
 - d. Royal Retreat, ACLF, Lic. No. 279
 - e. Spring City Care and Rehab., Lic. No. 210

2. Vishan Ramcharan, Associate General Counsel

- a. Kempton of Hermitage, ACLF, Lic. No. 463
- b. Somerby of Franklin, ACLF, Lic. No. 434

Section 2: Certificate of Need Case Update

1. TriStar Stonecrest Medical Center, Saint Thomas Rutherford Hospital, and Williamson Medical Center v. HFC and Vanderbilt University Medical Center d/b/a Vanderbilt Rutherford Hospital – Case No. 25.00-

This contested case concerns an appeal of the approval of CON application No. CN2109-026, for the establishment of a 42-bed acute care hospital and the initiation of diagnostic and therapeutic cardiac catheterization services to be located at an unaddressed site on Veterans Parkway at the southeast intersection of Veterans Parkway and S.R. 840, Murfreesboro (Rutherford County), TN 37218.

- The Administrative Law Judge issued the Initial Order denying the CON application.
- The Commission issued a Final Order approving CON application No. CN2109-026.
- Petitioners have filed an appeal in the Davidson County Chancery Court.
- The hearing date has not been scheduled.

2. Clarksville Health System, G.P. d/b/a Tennova Healthcare - Clarksville v. HFC and Middle Tennessee Imaging dba Premier Radiology – Case No. 25.00-242233J

This contested case concerns an appeal of the approval of CON application No. CN2401-001 on March 27, 2024, for the establishment of an outpatient diagnostic center and the initiation of MRI services at the intersection of Chesapeake Lane and Dunlop Lane, across Chesapeake Lane from Premier Medical Group's office building, and across Dunlop Lane 0.6 miles from the entrance drive to the Tennova Healthcare Clarksville hospital, Clarksville (Montgomery County), Tennessee 37040.

- The contested case hearing is scheduled for February 18-21, 2025 at a location TBD.

3. Vanderbilt University Medical Center and Williamson Medical Center v. HFC and TriStar Spring Hill Hospital – Case No. 25.00-243601J

This contested case concerns an appeal of the approval of CON application No. CN2404-010 on June 26, 2024, for the establishment of a 68-bed acute care hospital and the initiation of diagnostic and therapeutic cardiac catheterization services at 3001 Reserve Boulevard, Spring Hill (Maury County) Tennessee, 37174.

- The contested case hearing is scheduled for May 5-16, 2025, to be held at Nashville School of Law.

Section 3: Rules

1. The Critical Access Hospital rule set changes have been transmitted to the Secretary of State's Office for publication of the Rulemaking hearing date, currently set for October 10, 2024. This rule set was previously scheduled to be heard February 7, 2024 and the hearing was postponed.

Changes to the Rule include:

- Adding the definition of a Critical Access Hospital
 - Adding that an Acute Care Hospital meets the requirements by CMS as a Critical Access Hospital or a Rural Emergency Hospital.
 - Adding that a hospital may be dual-licensed with the Commission and the Department of Mental Health and Substance Abuse Services, and such designation will be indicated on the license.
 - Dual licensed facilities must meet all plans review requirements under Tenn. Comp. R. and Regs. 0720-14-.01
2. Abuse Registry rules have been updated and transmitted to the Attorney General's Office for legal review and approval. These rules are pending approval for further processing before finalization. This is the same status since the last meeting in June.
 3. Emergency Rules concerning Surgical Technologist program approval; corresponds to Policy 97.
 - This Rule set change reduces the certification burden on Surgical Technologists by reducing the number of certifying bodies required and instead substitutes "a national certifying body" for proof of competency.

Section 4: Policies

1. Policy 97- Surgical Technologist program approval. This policy was finalized and signed by the Board, June 2024.
2. Policy 98- CHOW appearances. This policy was not approved as Board Policy. The Board made changes to the CHOW application which was then approved by the Board.
3. Policy 99- Temp. Healthcare Staffing Agencies. Policy number was changed to #98. The policy was finalized and signed by the Board, June 2024.

4. Policy 100- HME Disaster Preparedness Waiver. Policy number was changed to #99. The policy was finalized and signed by the Board, June 2024.

Current Policies can be found at: https://www.tn.gov/content/dam/tn/hfc/documents/HFC-BLHCF_Policies.pdf