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**TENNESSEE DEPARTMENT OF HEALTH
MEMORANDUM**

Date: April 2, 2019

To: Shelley Walker, Director of Communication and Media Relations

From: Wanda E. Hines, Board Administrator

Name of Board or Committee: HCF/Performance Improvement Issue Standing
Committee Meeting
(Call-in Number: 1-888-757-2790 passcode: 152602#)

Date of Meeting: April 16, 2019

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.

PH-1850 (Rev. 3/79)

RDA N/A



LISA PIERCEY, MD, MBA, FAAP
COMMISSIONER

BILL LEE
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**

APRIL 16, 2019

**IRIS CONFERENCE ROOM, FIRST FLOOR
9:00 a.m.**

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

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1. Call the Meeting to Order and Establish a Quorum.
 2. SRS-Nashville HH+, LLC, Nashville (Sanderling) #233-Unacceptable Plan of Correction.
– Jerome Tannenbaum, Owner and Lucien Cook, Administrator
 3. Adopting an interpretative guideline for Home Health Services Rule 1200-08-26-.06(7)(c) regarding a rule change for supervisory visit of a home health aide to every sixty (60) days instead of monthly.
– Meagan Carr Martin, JD, Tennessee Association for Home Care
 4. Other Discussion(s).
 5. Public Comments.
 6. Adjourn.

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
PERFORMANCE IMPROVEMENT ISSUE (PI) STANDING COMMITTEE MEETING
APRIL 16, 2019

The Board for Licensing Health Care Facilities' Performance Improvement Issue (PI) Standing Committee meeting began on April 16, 2019. Jim Shulman served as chair for the meeting.

Ms. Patricia Ketterman-here
Mr. Jim Shulman-here
Ms. Janet Williford-here

A quorum was established.

The first item for discussion was SRS-Nashville HH+, LLC a/k/a Sanderling Dialysis fourth Plan of Correction (POC) submission. Sanderling is licensed as an end stage renal dialysis center (ESRD), #233. Mr. Shulman requested an introduction to this agenda item. Ann Reed, Director of the Board for Licensing Health Care Facilities, informed the PI Standing Committee members this facility was surveyed in November of 2018 with multiple deficiencies including some deficiencies that rose to a level of detriment to the health, safety, and welfare of patients. The facility submitted three POCs to the West Tennessee Regional Office (WTRO) with all three deemed unacceptable. Sanderling was directed to submit a fourth POC for presentation to the Board and to receive Board approval of the POC. Ms. Reed moved the intro to Caroline Tippens, Office of General Counsel, for further explanation of the agenda item as this new statutory language was the driver of this presentation. Ms. Tippens summarized the new legislation known as the CORE Act requiring a provider after the submission of a third unacceptable POC must appear before the Board to have their POC approved. She further stated this is a trail run with the PI Standing Committee then the decision will be presented to the full Board.

Jerome Tannenbaum, owner of Sanderling Dialysis, presented to the standing committee. Dr. Tannenbaum stated Sanderling had several goals for this meeting to include request for an interpretative guideline regarding staff of the ESRD being used as Certified Clinical Hemodialysis Technicians (CCHT) and approval of the fourth POC. Dr. Tannenbaum gave a historical background on dialysis services and the origination of Sanderling Dialysis. He went on to describe the service model followed by Sanderling. Dr. Tannenbaum informed the standing committee that Sanderling trains staff members of the facility to provide home dialysis care and services. He stated that family members are often intimidated by accessing ports and/or shunts for dialysis and the blood associated with such care.

Dr. Tannenbaum stated he has facilities in rural, underserved areas and utilizes telemedicine in these rural areas. He informed the Board the location of the home training center is on Clifton Drive in Nashville. He further stated the center provides a training manual and train the facility's staff with certification as a CCHT. The CCHTs take a national certification exam. CMS allows 25 training sessions for a lay person in a training program each session runs roughly five (5) hours. It's a total of 125 hours of training. CCHTs must have a minimum of 1000 hours of training before receiving their certification.

Mr. Shulman asked how many CCHTs employed by Sanderling. Dr. Tannebaum stated six succeeded the program and fully certified.

Ms. Ketterman stated it was not seen in the POC that training and competency checks were completed. Dr. Tannebaum stated there is ongoing competency and standard of practice being met. Clayton Byrd, attorney for Sanderling Dialysis, indicated each specific tag of the statement of deficiencies will be discussed later in the presentation.

Dr. Tannebaum recapped for the standing committee that the survey of Sanderling occurred in early November 2018 with four surveyors in attendance. Two of the surveyors were in clinic and two were at West Meade Place a nursing home with dialysis services provided. Dr. Tannebaum further stated the deficiency list was 120 pages in length. Half of this report was related to scope of practice issues. Other deficient practices were misinterpretation by the surveyors of facility flow sheets. The remaining deficient practices were appropriately cited deficiencies. Dr. Tannebaum gave the following timeline –

- POC for CMS was accepted on November 28, 2018
- Surveyors back in the facility on December 3, 2018. The immediate jeopardy at the CMS level was lifted, but condition level deficiencies remained and no new deficiencies were cited. At this time, the surveyors stated the licensure POC was unacceptable.
- POC submitted again and rejected on January 4, 2019
- Third POC was rejected which lead to discontinuation of the home program due to the scope of practice issues on March 20, 2019
- Received letter from the WTRO to submit a fourth POC and present to Board for Licensing Health Care Facilities on April 3, 2019

Dr. Tannebaum stated skilled nursing facility patients on ventilators are normally kept in an ICU and not part of the community on which these standards are based. Ms. Ketterman asked how and what will be done differently to correct the deficiencies. She further asked how often QAPI meets –Dr. Tannenbaum stated monthly. Ms. Ketterman asked who participates – Dr. Tannenbaum stated the nephrologist and social worker. Ms. Ketterman also asked a question relative to infection control and a QAPI process deficiency found on page 7 of the SOD. Dr. Tannenbaum stated the focus for the nursing home ESRD patients is on vascular access infections. Ms. Williford stated waiting for a sentinel event is too late to trend as something is already occurring. Dr. Tannenbaum states monitoring does occur.

Ms. Ketterman addressed infection control and the in home program stating she had been a nurse for over 40 years working in home health during that time. She stated she recalls some homes having deplorable conditions. Dr. Tannenbaum stated homes are assessed for appropriateness of home dialysis.

Vincent Davis, Director of the Office of Health Care Facilities, addressed the standing committee stating this is not a vacuum within the state agency and also involves CMS. He stated there have been several meetings including CMS with Sanderling Dialysis. Mr. Davis stated the following facts/stats on this facility's situation –

- Month of March 40 patients in TN (12 in NH, 17 in clinic, and 11@ home)
- Facility looked at from a state and federal perspective
- Sanderling removed immediacy of deficiencies. Surveyors went back to facility to determine if other systems in place to address full deficiencies.
- Use of CCHTs now the issue (CMS defers to states for allowing use of CCHT; CCHT not under the purview of the Board of Nursing)
- CMS decertified the home dialysis portion of Sanderling's service model

- January 2019 Bipartisan Act regarding telemedicine and use of nurses and CCHTs in telemedicine (Mr. Davis stated CCHTs not allowed per regulation)

Ms. Ketterman asked what type of training is required for CCHTs? Is it CNA training? Dr. Tannenbaum stated no, but they are required to have a high school diploma or GED. Ms. Ketterman also asked if competency checks with direct observation by an RN occurs. Dr. Tannenbaum stated yes. At this point, Ms. Davis asked the surveyors from the West Tennessee Regional Office (WTRO) to speak to the standing committee.

Mr. Shulman stated there are two issues at hand – use of CCHTs and approval of POC. He inquired of the surveyors if the CCHT issue off the table would the POC be acceptable. WTRO surveyor stated no. There continue to be infection control issues and documentation issues.

Ms. Tippens stated the PI Standing Committee's focus should be on the submitted POC and approval or denial of such; not on the home training occurring with CCHTs. Mr. Shulman stated the issue of CCHTs will need to be addressed in another meeting and involve different individuals. Mr. Davis stated CMS envelopes Sanderling's scope of services and has indicated movement of this concept to a pilot program. Changes are expected to occur at the federal level.

Ms. Ketterman asked if a monitor could be in the facility. Mr. Davis stated May 2nd CMS is to terminate the facility from the Medicare/Medicaid program and Dr. Tannenbaum desires a survey to occur on an accepted POC before May 2nd. Dr. Tannenbaum addressed the infection issue concern stating these are not uncommon in ESRD/dialysis. Discussion ensued concerning the facility appearing before the Board in June. Dr. Tannenbaum stated he can provide in-house monitoring to the state without an onsite visit occurring with the surveyors. Ms. Tippens also took the opportunity to inform the PI Standing Committee and Sanderling the CCHT issue could be addressed via an interpretative guideline (IG), rule change, and/or a change in the law. Mr. Shulman stated facility representatives should make a report to the full Board. He further stated the POC should be accepted based upon the WTRO satisfaction with the presented POC. **Mr. Shulman made a motion to accept the presented POC understanding the in home portion of services has been discontinued and the facility will appear before the full Board in June with a status check; seconded by Ms. Williford. The motion was approved.**

Mr. Byrd asked of the standing committee if the full Board could consider taking up the in home program. It is felt the ESRD rules allow CCHTs to serve as a family member or caregiver. The caregiver is a professional that can provide the in home service. Sanderling wants to address the full Board with this information and feels they have a legal standing to do so. Mr. Shulman stated an analysis by both parties to be brought back to the PI Standing Committee. A discussion of this item will be too lengthy for a full Board meeting.

The next agenda item was the adoption of an IG for Home Health rule 1200-08-26-.06(7)(c) regarding timing of a supervisory visit of a home health aide. Maegan Martin, Executive Director Tennessee Association for Home Care, presented this item to the standing committee. She requested the move of the supervisory visit to every 60 days instead of monthly. Ms. Tippens stated the current rule language with this change is moved forward and currently in internal review. The desire is to have an IG in place until the rule is effective. Ms. Martin indicated that TAHC supports and provided the IG language. **Mr. Shulman made a motion to approve the IG as presented; seconded by Ms. Williford. The IG was approved.**

Lastly, Ms. Tippens asked of the standing committee about the Plough Foundation meeting in Memphis. Mr. Shulman stated he did not attend, but did have his staff to attend. Ms. Tippens requested those staff members to make a report to the Board at its June 2019 meeting.

Ms. Willford made a motion to adjourn the meeting.