



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**

Date: March 21, 2018

To: Shelley Walker, 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: 152602#)

Date of Meeting: April 17, 2018

Time: 9:00 a.m.

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.



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**

**APRIL 17, 2018
IRIS CONFERENCE ROOM, FIRST FLOOR
9:00 a.m.**

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

1. Call the Meeting to Order and Establish a Quorum.
2. Board request for further discussion regarding Board Policy #81-Unexcepted Loss of Nursing Home Administrator-Nursing Home Rule 1200-08-06-.04(1).
3. CHOWS Application/Process for Approval/Denial.
4. Other Discussion(s).
5. Public Comments.
6. Adjourn.

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
PERFORMANCE IMPROVEMENT ISSUE (PI) STANDING COMMITTEE MEETING
APRIL 17, 2018

The Board for Licensing Health Care Facilities' Performance Improvement Issue (PI) Standing Committee meeting began on April 17, 2018. Jim Shulman served as chair for this meeting.

Ms. Patricia Ketterman- not here
Dr. Lisa Piercey-not here
Dr. Rene Saunders – not here
Mr. Jim Shulman-here
Ms. Gina Throneberry- here
Ms. Janet Williford-here

A quorum was established.

The first item for discussion was regarding Board Policy #81-Unexpected loss of Nursing Home Administrator-Nursing Home Rule 1200-08-06-.04(1). Ann Reed, Director of the Board for Licensing Health Care Facilities, provided background to this agenda item that was brought before the Board at the October 2017 Board meeting regarding the timeframe granted for this type of waiver. This discussion was revisited at the February 2018 Board meeting which an Interpretative Guideline presented for consideration by the Board. The full Board moved this agenda item to the Performance Improvement Issue Standing Committee for more discussion. At this meeting Caroline Tippens, OGC, stated the issues that were in her notes included a 'floating administrator' and the timeframe needed for this waiver. Mr. Shulman was concerned about the current process about an unexpected loss of administrator; Ms. Reed described the current process. Chris Puri, THCA, spoke to the 'floating administrator' issue. He mentioned that the Board isn't approving the administrator but approving a waiver for a period of time of a regulatory requirement for the nursing home. Stacia Vetter, NHC, brought to the Committee's attention to approve all of the unexpected loss of administrators' requests like it is done for Outpatient Therapy and sharing of administrators under the Board policy consent waivers. Ms. Reed and Ms. Tippens agreed that this was the intent so each individual would not have to appear before the Board. Ms. Tippens read off the six (6) items requested by the Board to provide when a temporary/permanent administrator is applying for a waiver. Mr. Puri advised the Board to add the new administrator's start date or projection start date on the list. Ms. Vetter also advised to put the intention of the administrator whether the administrator is a temporary seeking licensure in Tennessee or as the permanent administrator of the facility making the request. Ms. Tippens advised the PI Committee to delete the provision: date of last survey to include highest scope and severity deficiency cited because it could lead into discussion of potential disciplinary actions on a facility. Ms. Tippens agreed with Mr. Puri to add the exit day of the administrator and the start date of the new administrator. Mr. Puri asked about the idea of the Consent section and if needed, the Board could pull a questionable request off the Consent section and put on the agenda as a Discussion item if needed and a representative from the facility could be there if desired. The PI Committee added a timeframe to

the waiver for one (1) year from the actual board meeting date and to be placed on a board consent section of the agenda. **Ms. Williford made a motion to approve the amended changes to Board Policy #81; Ms. Throneberry seconded. The motion was approved.**

The second item for discussion was a request regarding CHOW denial from the February 2018 Board agenda. The application that was denied raised questions about the CHOW process; situations that may affect the process such as lenders, new operators; and TNCare's issuance of Medicaid ID. These issues were moved by the full Board to this PI Committee for further discussion. The CHOW instruction sheet and blank application were given to the PI Committee. Ms. Tippens stated the quality of new operators can be in question and wanted to know if the standing committee wanted to address. TNCare representative, Patty Killingsworth, addressed the standing committee regarding the issuance of a Medicaid ID number in a change of ownership situation. She stated this may be a narrow issue relative to the CHOW process. TNCare and THCA proposed the Office of Health Care Facilities issue a letter in a CHOW situation that gives permission to the CHOW applicant to use the existing license while the CHOW application is in process. This would aide in the assignment of a Medicaid ID number. Vincent Davis, Director of the Office of Health Care Facilities, asked Ms. Reed what this would look like from a licensure perspective. Ms. Reed stated an additional letter addressing this could be inserted into the process or additional language could be added to already existing letters acknowledging the use of the license number based upon the effective date of the CHOW application. It was determined the bigger issue with the CHOW application process should be discussed before confirming the decision made relating to the narrow issue with the CHOW process. Mr. Puri presented the legal rights issue with the CHOW process. He stated CMS approval is post transactional and that could lead to issues because things can change before the process is over. Mr. Puri further stated the licensure and certification process are tied together. Mr. Shulman read the highlighted CHOW application portion and clarified process and paperwork timeline with Ms. Reed and Mr. Puri. Kyontze Hughes-Tombs, Deputy OGC, stated from a legal perspective the licensure and the certification process through CMS are two separate things. She asked Ms. Reed if this would make things easier. Ms. Reed recalled that it was done this way in the past. Mr. Shulman asked to move to a 60 day notice instead of the 30 day timeframe for notice of intent of a CHOW. Mr. Puri stated during the notice period the regional office would check the facility's survey and compliance history. Mr. Shulman further stated admin staff would send an initial approval letter to address pending completion of the bill of sale and the status of the licensure file review i.e. compliance, outstanding deficiencies to all occur within the 60 day notice timeframe. Ms. Reed asked if when the motion was put together other items could be addressed on the CHOW application. She asked the board if on the application it could be asked if the CHOW is a lease of operations to include the lessee information. Also, if the submitted CHOW application is a lessor/lessee transaction identified in section above on the last page could language be inserted to indicate the state of Tennessee may share info regarding the activities and compliance of the licensee with the previously stated lessor. Ms. Tippens mentioned that there needed to be some clarification on the instruction sheet that addresses the 'who is the lessor/lessee' operation item. **Ms. Williford made a motion to approve all changes discussed to the CHOW applications as presented; Ms. Throneberry seconded. Motion was approved.** Ms. Throneberry asked a question about the federally approved accrediting body and if the information on the applications was correct. Ms. Reed stated it is a for example listing, but could be changed to

'including but not limited to JCAHO, CARF, etc.' Ms. Tippens advised to put guidance of this part into the instruction sheet as well. **A friendly amendment to the motion was made to include CHOW application procedures and application body changes to all certified and licensed facility types and for accrediting body information language change to 'including but not limited to JCAHO, CARF, etc'.** Motion was approved.

Mr. Shulman made a motion to adjourn the meeting.