



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: September 16, 2015

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 Board Meeting
(Call-in Number: 1-888-757-2790 passcode: 457462#)

Date of Meeting: September 17-18, 2015

Time: 9:00 a.m.

Place: Iris Conference Room
665 Mainstream Drive, First Floor
Nashville, TN 37243

Major Item(s) on Agenda: See attachments.

Link to Live Video Stream:

September 17, 2015

<https://web.nowuseeit.tn.gov/Mediasite/Play/912515a98ff540f6bd734d864106b6b51d>

September 18, 2015

<https://web.nowuseeit.tn.gov/Mediasite/Play/ec428749338a47f5bb9991f4194be2441d>

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

September 17-18, 2015
IRIS CONFERENCE ROOM, FIRST FLOOR
9:00 a.m.

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

A. PERFORMANCE IMPROVEMENT ISSUE STANDING COMMITTEE MEETING.

1. Call the Meeting to Order and Establish a Quorum.
2. Language Approval for Interpretative Guidelines-Hospital Rule 1200-08-01-.07(4)(a)(b) – Outpatient Services & Dialysis.
3. Revisit-APN On-Call & Admission Orders Rule Language (Follow CMS Guidance) for Nursing Homes and Hospitals.
4. Proposed Hospital Rule Change Governing Patient Diets.
– John P. Williams, Tune, Entrekin & White, PC
5. Interpretative Guidelines for Nursing Homes for Vent Units
– Gene Gantt, RRT, President, CEO, Eventa Outcomes for Life
6. Clarification for Professional Support Services Rule 1200-08-34-.04(9) Administration; proof of adequate medical screenings to exclude communicable disease.
– Teresa Anderson, Director of Nursing, and Donald W. Redden, Executive Director, Development Services of Dickson County
7. Other Discussion(s).
8. Adjourn.

B. EDUCATION STANDING COMMITTEE MEETING.

1. Call the Meeting to Order and Establish a Quorum.
2. Approval of Minutes – July 8, 2015 Education Standing Committee.
3. Language Approval for Interpretative Guidelines-Nursing Home Rule 1200-08-06-.15(2)(c)4 Nurse Aide Training Program Pass/Fail Rate Calculation.

C. ASSISTED CARE LIVING FACILITIES STANDING COMMITTEE MEETING

1. Call the Meeting to Order and Establish a Quorum.
2. Language Approval for Interpretative Guidelines- ACLF Rule 1200-08-25-.06(5)(a) – Infection Control.
3. Language Approval for Interpretative Guidelines- ACLF Rule 1200-08-25-.08(1)(c) – Reportable Patient Communicable Disease.
4. Discussion of the Medication Aide Certified Program.

D. FACILITIES CONSTRUCTION STANDING COMMITTEE AND THE ASSISTED CARE LIVING FACILITIES STANDING COMMITTEE MEETING

1. Call the Meeting to Order and Establish a Quorum.
2. Revisit-ACLF rules 1200-08-25-10(2)(i) – What is considered “cooking appliances?”
3. **GOVERNOR’S BEND ASSISTED LIVING FACILITY, ERWIN**
A one hundred twenty-four (124) bed facility is requested to waive 1200-08-25-.09(1) Building Standards regarding the HVAC issue and the Wireless Nurse Call Station. The statement references NFPA 90A, 5.3.3.1, 5.4.4 regarding HVAC and Fire Dampers. Their original architect’s email reference for the exception to dampers was NFPA 32.3.3.7.10. The only reference to the Wireless Nurse Call Station System is UL 1069 edition 7 which is an AIA Guideline specifically references Hospitals and Nursing Homes. This ACLF facility would be covered under NFPA as a new residential board and care occupancy which these rooms would be considered our clients’ homes.

Representative(s): Randy Trivette, Chief Financial Officer
FreeWill Baptist Family Ministries
4. **Reconsideration**-ACLF Rule 1200-08-25-.10(2)(f) & RHA Rule 1200-08-11-.08 vs. NFPA 101 Life Safety Code 32.3.2.3.3 – Corridor requirements. – Bill Harmon
5. Other Discussion(s).
6. Public Comments.
7. Adjourn.



JOHN J. DREYZEHNER, MD, MPH
COMMISSIONER

BILL HASLAM
GOVERNOR

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AGENDA

BOARD FOR LICENSING HEALTH CARE FACILITIES

September 18, 2015 – Second Day
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.**
- 2. ESTABLISH A QUORUM.**
- 3. ORDERS.**
 - A. Consent Orders.**
 - B. Orders.**
- 4. APPROVAL OF MINUTES:** Emergency Called Board Meeting-August 7, 2015
Education Standing Committee Meeting-July 8, 2015
Facilities Construction Standing Committee Meeting-
May 5, 2015
Assisted Care Living Facility Standing Committee
Meeting-March 24, 2015
- 5. REPORTS**
 - A. EMS REPORT - Robert Seesholtz**
 - B. NURSE AIDE REPORT – Wanda King**
 - C. OFFICE OF GENERAL COUNSEL REPORT – Devin Wells**

6. CONSIDERATION AND RATIFICATION OF LICENSURE APPLICATIONS (CHANGE OF OWNERSHIP (CHOWS) AND INITIALS).

A. CONSIDERATION.

(INITIALS)

B. RATIFICATION.

1. QUALIFYING APPLICATIONS

(INITIALS)

A1 Diabetes and Medical Supply, Inc., Memphis-Home Medical Equipment Facility
Baby + Company Nashville1, LLC, Nashville-Birthing Center Facility
Carthage Assisted Living, LLC, Carthage-Assisted Care Living Facility
Dominion Senior Living of Johnson City, Johnson City-Assisted Care Living Facility
First Community Care, LLC, Nashville-Home Medical Equipment Facility
Fresenius Medical Care Knoxville Home Dialysis Therapies, Knoxville-End Stage Renal Disease Facility
Green Crest Assisted Living Centers, Inc., Parsons-Assisted Care Living Facility
Hemophilia Preferred Care of Memphis, Inc., Memphis-Home Health Agency
Medical Health Specialist of TN, Inc., Trenton-Home Medical Equipment Facility
Medical Supply Services, LLC, Cookeville-Home Medical Equipment Facility
Prism Medical Products, LLC, Memphis-Home Medical Equipment Facility
Sprocket Therapy Solutions, LLC, Nashville-Professional Support Services
Sunrise Homecare, LLC, Nashville-Home for the Aged Facility
Sycamore Springs Senior Living Community, Elizabethton-Assisted Care Living Facility
The Imaging Center at Wolf River, Germantown-Outpatient Diagnostic Center Facility
Therapy Success, LLC, Bartlett-Home Medical Equipment Facility
Vantage Pointe Village at Ashland City, Ashland City-Assisted Care Living Facility

2. (CHOWS)

Graceland Rehabilitation and Nursing Center, Memphis-Nursing Home Facility
Healthy Life Care, LLC, Portland-Residential Home for the Aged Facility
Maybelle Carter Senior Adult Home, Madison-Assisted Care Living Facility
Spring Creek Home Medical Supply, Clarksville-Home Medical Equipment Facility
The Hearth at Franklin, Franklin-Assisted Care Living Facility

7. DISCUSSION(S).

- A.** Summary of the Performance Improvement Issue Standing Committee Meeting that was held June 23, 2015 from 9:00 a.m. to 11:00 a.m. – Ann Rutherford Reed
- B.** Summary of the Performance Improvement Issue Standing Committee and the Facilities Construction Standing Committee Meeting that was held June 23, 2015 from 11:00 a.m. to 2:00 pm. – Ann Rutherford Reed
- C.** Summary of the Facilities Construction Standing Committee that was June 23, 2015 from 2:00 p.m. to 4:00 p.m. – Ann Rutherford Reed
- D.** Summary of the Assisted Care Living Facility Standing Committee Meeting that was held on August 18, 2015. – Ann Rutherford Reed
- E.** Tennessee Assisted Care Living Facility Trend Report from the Assisted Care Living Facility Standing Committee Meeting-August 18, 2015 request to share with Board.
– Ann Rutherford Reed
- F.** **Consider**-Home Care Organization Providing Home Health Services 1200-08-26-.01(48) and 1200-08-26-.05(4) and (8) pertaining to physician who supervises patient care and writes orders.
– Sharon Parham, Director of Development with Home Health of East Tennessee

G. PROPOSED MEETING DATES FOR YEAR 2016.

H. Board Approval for the Following Interpretative Guidelines

- (1) Approval of Interpretative Guideline-Assisted Care Living Facility (ACLF) and Home for the Aged (RHA) Disaster Plan, HVAC, and Emergency/Generator Regulation 1200-08-25-.16(4) and RHA 1200-08-11-.13(3).
- (2) Approval of Interpretative Guideline-Nursing Home Rule 1200-08-06-.15(2)(c)4 Nurse Aide Training Program Pass/Fail Rate Calculation.
- (3) Approval of Interpretative Guideline-Hospital Rule 1200-08-01-.07(4)(a)(b) – Outpatient Services & Dialysis.
- (4) Approval of Interpretative Guideline-ACLF Rule ACLF Rule 1200-08-25-.08(1)(c) – Infection Control.

- (5) Approval of Interpretative Guidelines-ACLF Rule 1200-08-25-.08(1)(c) -- Reportable Patient Communicable Disease.
- (6) Approval of Interpretative Guidelines for Nursing Homes Vent Units Rules 1200-08-06-.06(12)(a)1; 1200-08-06-.06(a)4(d); 1200-08-06-.06(a)4(d); and 1200-08-06-.06(12)(a).

I. Board Approval for the following applications:

- (1) Ambulatory Surgical Treatment Center Initial Application
- (2) Home Medical Equipment Licensure Initial Application
- (3) Professional Support Services Licensure Initial Application
- (4) Professional Support Services Licensure CHOW Application
- (5) Professional Support Services Renewal Application

J. Proposed Hospital Rule Change Governing Patient Diets.
 – John P. Williams, Attorney

K. Consider Amended Hospital Language Rule 1200-08-01-.01 the definition of “rural” or “rural hospital” is clear. This rule is promulgated under the auspices of the HCF Board. – Bruce Behringer and Angie Allen, Dept. of Health

L. Clarification for Professional Support Services Rule 1200-08-34-.04(9) Administration; proof of adequate medical screenings to exclude communicable disease.
 – Teresa Anderson, Director of Nursing and Donald W. Redden, Executive Director, Development Services of Dickson County

M. Approval of the Joint Annual Report on the Status of Emergency Medical Services for Children 2015 and Report of the Five (5) Strategic Priorities.
 – Rhonda Phillippi, Executive Director, TN EMS for Children

8. LICENSE STATUS UPDATES.

VOLUNTEER WOMEN’S MEDICAL CLINIC, KNOXVILLE

Volunteer Women’s Medical Clinic was placed on inactive status on February 7, 2013 which expired on January 2014; an extension waiver for twelve months was granted on January 23, 2014 which will expire on January 23, 2015. Due to phone difficulties at the January 21, 2015 Board meeting the Board asked Ms. Walsh to come back in May to explain her waiver request. On May 5, 2015 Ms. Walsh has informed the Department that she will be seeking to close this facility after returning from vacation on May 15th because it had become costly in renewal fees to keep this facility. Volunteer Women’s Medical Clinic did not renew their ASTC license so the license was closed on June 30, 2015.

9. LICENSE STATUS REQUESTS.

NASHVILLE SURGERY CENTER, NASHVILLE

This ASTC facility is seeking to place their license on inactive status due to low volume and other business issues and has stopped seeing patients effective May 29, 2015. The company of Nashville Surgery Center is in negotiations with Nashville SurgiCenter, LLC, an HCA-affiliated which will result in a change of ownership.

Representative(s): Chris Puri, Attorney, Nashville Surgery Center and
Jerry W. Taylor, Attorney, Nashville SurgiCenter, LLC

DONELSON PLACE CARE AND REHABILITATION CENTER, NASHVILLE

This one hundred twenty-four (124) bed facility is seeking to place their license on inactive status for a period of three (3) years. Due to the termination from participating in the CMS certification this facility has closed their operations and transferred all remaining residents to other Signature facilities on July 23, 2015. Signature Healthcare will be applying for a Certificate of Need (CON) to build a new replacement facility and for other possible opportunities.

Representative(s): Jeffrey D. Parrish, Attorney and Will Blank, Regional Vice President,
Signature Healthcare

TRI-CITIES OUTPATIENT SURGERY, INC., JOHNSON CITY

This ASTC facility is seeking to place their license on inactive status due to declining reimbursements and declining volume. This facility is not seeing patients and has closed their doors as of August 4, 2015. Their plans are to use the ASTC space as part of their clinic.

Representative(s): Brenda Stufflestreet, Administrator

SOUTHERN HILLS SURGERY CENTER, NASHVILLE

This ASTC facility is seeking their eighth extension waiver for inactive status for an additional two (2) years that corresponds to the period of validity of the Certificate of Need (CON) that was granted to Southern Hills Surgery Center on May 27, 2015 to relocate and for a replacement facility. The CON has an expiration date of July 1, 2017. Southern Hills requests an extension at least through the fall, 2016 at which time Southern Hills representatives could appear and provide the Board with an update on the status of the appeal.

Representative(s): Jerry W. Taylor, Attorney

BAPTIST REHABILITATION-GERMANTOWN, GERMANTOWN

This facility is seeking to place their license on inactive status for a period of one (1) year. Baptist Rehabilitation-Germantown surrendered its license for 49 inpatient rehabilitation beds leaving only 11 general acute care beds. Baptist Rehabilitation-Germantown operates an MRI service at an off-campus location at 6286 Briarcrest Avenue, Suite 120, Memphis. The plan is for this MRI service to continue, and Baptist Memorial-Germantown will undertake to transfer operation of the MRI services to Baptist Memorial Hospital-Memphis. A Certificate of Need (CON) has not yet been determined if transfer of the MRI is required. The inpatient rehabilitation services having been relocated, the future of this facility is uncertain and Baptist Rehabilitation-Germantown need time to allow an opportunity for an orderly review of the options for future operations of this facility.

Representative(s): Dan H. Elrod, Attorney

10. WAIVER REQUESTS.

A. THE FOLLOWING NURSING HOMES ARE REQUESTING TO WAIVE NURSING HOME REGULATIONS 1200-08-06-.04(1) FOR A TENNESSEE LICENSED NURSING HOME ADMINISTRATOR UNTIL A PERMANENT REPLACEMENT IS HIRED OR RECEIVES HIS/HER LICENSE IN TENNESSEE.

- (1) NEWPORT HEALTH AND REHABILITATION CENTER, NEWPORT**
-Chris Puri, Attorney
- (2) THE WEXFORD HOUSE OF KINGSPORT, KINGSPORT**
-Amy Gregory, Director of Nursing
- (3) WHITEHAVEN COMMUNITY LIVING CENTER, MEMPHIS**
-Donni Dubert, Regional Director of Operations

B. OTHER WAIVER REQUEST(S)

GOVERNOR'S BEND ASSISTED LIVING FACILITY, ERWIN

This one hundred twenty-four (124) bed facility is requested to waive 1200-08-25-.09(1) Building Standards regarding the HVAC issue and the Wireless Nurse Call Station. The statement references NFPA 90A, 5.3.3.1, 5.4.4 regarding HVAC and Fire Dampers. Their original architect's email reference for the exception to dampers was NFPA 32.3.3.7.10. The only reference to the Wireless Nurse Call Station System is UL 1069 edition 7 which is an AIA Guideline specifically references Hospitals and Nursing Homes. This ACLF facility would be covered under NFPA as a new residential board and care occupancy which these rooms would be considered our clients' homes.

Representative(s): Randy Trivette, Chief Financial Officer
FreeWill Baptist Family Ministries

AVALON HOSPICE, NASHVILLE

Avalon Hospice Agency is seeking a waiver to open two (2) new branch offices located in Sweetwater (approximately 184 miles from the Nashville parent office) and Kingport (approximately 277 miles from the Nashville parent office). Avalon has a geographic service area of all 95 counties in Tennessee. Avalon Hospice has twice requested and received similar waivers from the Board in early 2014 and in May 2009 and has locations in Dyersburg, Johnson City, Morristown, Bolivar, Memphis, Jackson and Knoxville.

Representative(s): Stephen Angelette, Associate, John Dyer, Vice President TNMO Healthcare and Gusti McGee, Director of Regulatory Services

PENTEC HEALTH, INC., NASHVILLE

Pentec Health is a home health agency seeking license in Tennessee and is seeking to waive one provision of the Standards for Homecare Organizations Providing Home Health Services rule 1200-08-26-.04(10) relating to maintaining an office with a working telephone and be staffed during normal business hours. Pentec will maintain this office primarily for the purpose of survey conferences and other meetings and is staffed by a shared receptionist only. Pentec does not treat patients in the office and all patient records are electronic and are accessible from any location with internet service. Because care is delivered in their places of residence, patients whom are home-bound or suffer from limited mobility are spared for the need for travel to a physician's office for treatment.

Representative(s): Kim Looney, Attorney

***(Deferred to January 2016 Meeting)**

MAYBELLE CARTER SENIOR ADULT HOME, NASHVILLE

This seventy-four (74) ACLF facility is seeking to waive ACLF Regulation 1200-08-25-.09(16)(b) regarding the number of beds in each bedroom. Maybelle Carter is seeking to renovate the facility and is considering modification that would provide up to three (3) residents sharing certain common space within a shared space configuration of a half wall providing privacy in the sleeping area only.

Representative(s): Chris Puri, Attorney

MCMINN MEMORIAL NURSING HOME, ETOWAH AND STARR REGIONAL MEDICAL CENTER, ATHENS

McMinn Memorial Nursing Home, Etowah is requesting approval to be allowed to temporarily move patients and beds to a temporary location within the Starr Regional Medical Center-Etowah Campus while McMinn undergoes renovation and construction. McMinn Memorial Nursing Home is an eighty-eight (88) bed nursing home in Etowah on the campus of Starr Regional Medical Center. Starr Regional Medical Center is a 190-bed acute care facility. McMinn will undergo an extensive renovation and remodeling in four (4) phases. Each phase of construction will affect approximately 16-22 patient beds. Starr Regional would like to utilize unused and available within the licensed hospital. The proposed construction plan for McMinn will be approximately eight (8) months.

Representative(s): Chris Puri, Attorney

11. BOARD POLICY CONSENTS.

A. THE FOLLOWING NURSING HOMES ARE REQUESTING A WAIVER TO PROVIDE OUTPATIENT THERAPY SERVICES AS PROVIDED FOR BY BOARD POLICY #32:

Agape Nursing & Rehabilitation Center, Johnson City
Boulevard Terrace Rehabilitation and Nursing Center, Murfreesboro
Church Hill Health Care and Rehabilitation Center, Church Hill
Crestview Health and Rehabilitation, Nashville
Glen Oaks Health and Rehabilitation, Shelbyville
Golden Livingcenter-Windwood, Clinton
Lebanon Health & Rehabilitation Center, Lebanon
Manchester Health Care Center, Manchester
Poplar Point Health and Rehabilitation, Memphis
Signature Healthcare of Erin, Erin

B. THE FOLLOWING FACILITIES ARE REQUESTING APPROVAL TO PERMIT AN ADMINISTRATOR TO SERVE BOTH A NURSING HOME AND ASSISTED CARE LIVING FACILITY ACCORDANCE WITH BOARD POLICY #39:

Life Care Center of Sparta, Sparta (Nursing Home) and The Bridge Assisted Living (ACLF)

12. **REGULATION(S).**

A. **BOARD APPROVAL FOR RULEMAKING HEARING.**

B. **PROPOSED RULE LANGUAGE**

Request to amend the rules for hospitals and ambulatory surgical treatment centers to promulgate rules regarding the reporting of abortions according to T.C.A. 68-3-505.

There is already a rule in place in the Office of Vital Records rules 1200-07-0-.07(1), (2), (3), (4) that would like to see mirrored into the rules for Hospitals rules 1200-08-01-.11 and Ambulatory Surgical Treatment Center rules 1200-08-10.11.

**MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
EDUCATION STANDING COMMITTEE MEETING**

SEPTEMBER 17, 2015

The Board for Licensing Health Care Facilities' Education Standing Committee meeting began on September 17, 2015.

A quorum roll call vote was taken:

Dr. Jennifer Gordon-Maloney – absent
Robert Breeden – here
Bobby Wood – here
Dr. René Saunders – here

A quorum was established.

Ann Reed, Director of the Board for Licensing Health Care Facilities, indicated a chairman would need to be established as Dr. Jennifer Gordon-Maloney the voted chairman was not in attendance. Mr. Robert Breeden was voted as chairman.

The July 8, 2015 Education Standing Committee minutes were unanimously approved. The committed moved to the last agenda item which was to approve language for the interpretative guideline (IG) for nursing home rule 1200-08-06-.15(2)(c)4 regarding nurse aide training program pass/fail rate calculation. The IG language being presented was developed at the July 8th standing committee meeting. Ms. Reed provided additional information to the committee members from DNS Diversified Technology LP regarding pass/fail rates and nurse aide program thresholds. Wanda King, Nurse Aide Program Manager, was in attendance and available for questions. Mr. Breeden restated the current way of compiling the pass/fail rate is to calculate each time a test is taken. The change will allow the pass/fail rate to be calculated after the third attempt. This would have made a marked difference in the number of nursing home programs that came before the Board. **Dr. René Saunders made a motion to accept the IG language; seconded by Mr. Bobby Wood.** During discussion, Chris Puri, outside counsel for Tennessee Health Care Association (THCA), indicated that if an individual passes the test at the first attempt there would not be a third attempt at the testing so the language may be questionable. Another discussion point was the timeframe upon which to make the pass/fail rate determination and the inclusion to the IG language. This would be more beneficial to those programs with smaller student participation. Ms. King spoke to Mr. Puri's comments. She indicated the current rules indicate an annual timeframe for test result determination. Ms. King further stated the calculations are based upon a student size of 20 during a period. She indicated the industry would be better served by the recommendations made by Mr. Puri. Ms. King also stated contacting other states may prove useful and then a recommendation could be brought back to the committee. She further stated the information provided by DNS recommends a pass/fail rate of 70% measured on the first attempt rather than three attempts combined for a group of 20. The standing committee questioned how to address the smaller programs. Mr. Puri indicated the 20 threshold could be met over a two year period vs on an annual basis understanding the current language may not allow or be interpreted by legal counsel to allow. Ms. King provided the standing committee with recommendations by the Nurse Aide Advisory Committee

which included class time being a minimum of 120 hour, clinical time being a minimum of 40 hours, mandatory attendance to an instructor workshop, etc. The recommendations from the Nurse Aide Advisory Committee were determined to be an item to address at a future meeting of this standing committee. **Mr. Breeden made an amendment to the motion on the table which included programs having trained 20 or more students annually will have pass/fail rates evaluated on the previous twelve (12) months and programs having trained less than 20 students annually will have pass/fail rates evaluated annually on the previous twenty-four (24) months. Dr. Saunders made a motion to accept the IG as currently stated; seconded by Mr. Bobby Wood. The motion was approved.**

Mr. Breeden adjourned the standing committee meeting.