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Sequence Number: 09-15-23
Notice ID(s): 3723
File Date: 9/12/2023

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	TN Health Facilities Commission, Board for Licensing Health Care Facilities
Division:	N/A
Contact Person:	Logan Grant, Executive Director
Address:	Andrew Jackson Bldg., 9th Fl., 502 Deaderick St., Nashville, TN 37243
Phone:	(615) 741-2364
Email:	Logan.Grant@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Caroline Tippens, Director of Licensure and Regulation
Address:	665 Mainstream Drive, Nashville, TN 37243
Phone:	(615) 741-7221
Email:	Caroline.Tippens@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	665 Mainstream Drive		
Address 2:	Iris Room		
City:	Nashville		
Zip:	37243		
Hearing Date:	November 1, 2023		
Hearing Time:	10:00 a.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0720-21	Standards for Homes for the Aged
Rule Number	Rule Title
0720-21-.01	Definitions
0720-21-.03	Disciplinary Procedures
0720-21-.09	Infectious and Hazardous Waste

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter Number 0720-21
Standards for Homes for the Aged

Rule 0720-21-.01 Definitions is amended by deleting paragraphs (11), (12), (30) in their entirety, and is further amended by adding new paragraphs (11) and (43), and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs shall read:

- (11) Commission. Health Facilities Commission.
- (43) Regulated Waste. Liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials, as defined in United States Department of Labor Occupational Safety & Health Administration, 1910.1030, Bloodborne Pathogens.

Authority: T.C.A. §§, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-216, 68-11-224, 68-11-1802, 68-57-101, 68-57-102, and 68-57-105.

Rule 0720-21-.03 Disciplinary Procedures is amended by adding new paragraphs (4) and (10) and by renumbering the remaining paragraphs, so that as amended, the new paragraphs shall read:

- (4) If the same or different deficiencies are cited on the third revisit survey, then the department may pursue disciplinary action against the facility before the board, including seeking reimbursement for the unrecouped costs associated with subsequent revisit surveys that were incurred by the department.
- (10) Order of Compliance - This procedure is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 - (b) Procedures
 - 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting,

under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and Rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Social Worker Licensure

Petitioner's Name: _____
Petitioner's Mailing Address: _____

Petitioner's E-Mail Address: _____
Telephone Number: _____

Attorney for Petitioner: _____
Attorney's Mailing Address: _____

Attorney's E-Mail Address: _____
Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board's consultant and

administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _ day of _____, 20_____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-219, 4-5-312, 4-5-316, 4-5-317, 68-11-202, 68-11-204, 68-11-206, 68-11-208, 68-11-209, and 68-11-216.

Rule 0720-21-.09 Infectious and Hazardous Waste is amended by deleting the rule title and only paragraphs (1), (2), (3), subparagraph (4)(b) and (4)(c), paragraphs (5) and (8), subparagraphs (8)(a) and (8)(b), and paragraph (11) in their entirety and substituting instead the following language, so that as amended, the new rule title paragraphs, and subparagraphs shall read:

0720-21-.09 Regulated and Hazardous Waste.

- (1) Each home for the aged must develop, maintain and implement written policies and procedures for the definition and handling of its regulated and hazardous wastes. These policies and procedures must comply with the standards of this section and all other applicable state and federal regulations.
- (2) The following waste shall be considered to be regulated waste:
 - (a) liquid or semi-liquid blood or other potentially infectious materials (OPIM);
 - (b) items contaminated with blood or OPIM and which would release these substances in a liquid or semi-liquid state if compressed;
 - (c) items that are caked with dried blood or OPIM and are capable of releasing these materials during handling;
 - (d) contaminated sharps; and
 - (e) pathological and microbiological wastes containing blood or OPIM.
- (3) Regulated and hazardous waste must be segregated from other waste at the point of generation (i.e., the point at which the material becomes a waste) within the facility.
- (4)
 - (b) Whether disposable or reusable, all containers, bags, and boxes used for containment and disposal of regulated waste must be conspicuously identified. Packages containing regulated waste which pose additional hazards (including but not limited to, chemical, radiologicals) must also be conspicuously identified to clearly indicate those additional hazards.
 - (c) Reusable containers for regulated waste must be thoroughly sanitized each time they are emptied, unless the surfaces of the containers have been completely protected from contamination by disposable liners or other devices removed with the waste.
- (5) After packaging, waste must be handled and transported by methods ensuring containment and preservation of the integrity of the packaging, including the use of secondary containment where necessary. Plastic bags of regulated waste must be transported by hand.
- (8) Except as provided otherwise in this rule, a facility must treat or dispose of regulated waste by one or more of the methods specified in this paragraph.
 - (a) A facility may treat regulated waste in an on-site sterilization or disinfection device, or in an incinerator or a steam sterilizer, which has been designed, constructed, operated and maintained so that regulated waste treated in such a device is rendered non-regulated and is, if applicable, authorized for that purpose pursuant to current rules of the Department of Environment and Conservation. A valid permit or other written evidence of having complied with the Tennessee Air

Pollution Control Regulations shall be available for review, if required. Each sterilizing or disinfecting cycle must contain appropriate indicators to assure that conditions were met for proper sterilization or disinfection or materials included in the cycle, and appropriate records kept. Proper operation of such devices must be verified at least monthly, and records of the monthly verifications shall be available for review. Waste that contains toxic chemicals that would be volatilized by steam must not be treated in steam sterilizers. Regulated waste that has been rendered to carbonized or mineralized ash shall be deemed non-regulated unless subject to the hazardous waste management requirements of the current rules of the Department of Environment and Conservation, such ash shall be disposable as a (non-hazardous) solid waste under current rules of the Department of Environment and Conservation.

- (b) A facility may discharge liquid or semi-liquid regulated waste to the collection sewerage system of a wastewater treatment facility which is subject to a permit pursuant to T.C.A. §§ 69-3-101, et seq., provided that such discharge is in accordance with any applicable terms of that permit and/or any applicable municipal sewer use requirements.
- (11) All garbage, trash and other non-regulated waste shall be stored and disposed of in a manner that must not permit the transmission of disease, create a nuisance, provide a breeding place for insects and rodents, or constitute a safety hazard. All containers for waste shall be water tight, constructed of easily-cleanable material, and shall be kept on elevated platforms.

Authority: T.C.A. §§ 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: September 11, 2023
Signature: *Logan Grant/JC*
Name of Officer: Logan Grant
Title of Officer: Executive Director

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Filed with the Department of State on: 9/12/2023

Tre Hargett
Tre Hargett
Secretary of State

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