



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 3, 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-
Performance Improvement Issue Standing Committee
(Call-in Number: 1-888-757-2790 passcode: 457462#)

Date of Meeting: March 10, 2015
Time: 10:00 a.m. – 12:00 noon, CST
Place: Poplar 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.

AGENDA

BOARD FOR LICENSING HEALTH CARE FACILITIES PERFORMANCE IMPROVEMENT ISSUE STANDING COMMITTEE MEETING

665 Mainstream Drive, First Floor

Poplar Conference Room

Nashville, TN 37243

10:00 a.m. – 12:00 noon

March 10, 2015

1. Call the Meeting to Order and Establish a Quorum.
2. Report of Communicable Disease for Who and What Disease is Communicable Disease regarding the following regulations: Hospital 1200-08-01-.11(7), Nursing Home 1200-08-06-.11(1), Ambulatory Surgical Treatment Center 1200-08-10-.11(3), Residential Hospice 1200-08-15-.11(2), Birthing Center 1200-08-24-.10(3), HIV Supportive Living 1200-08-28-.10(2), End Stage Renal Dialysis Clinic 1200-08-32-.11(1), and Outpatient Diagnostic Center 1200-08-35-.11(3).
3. Hospital and Nursing Home Rules and Regulations allowing Advanced Practice Registered Nurses (APRN) to Provide On-Call Services and to Write Admission Orders.
4. Home Medical Equipment 1200-08-29 Rules and Regulations Review.
 - A. Reconsideration of Interpretative Guidelines (IG) for 1200-08-29-.06(4) Delivery of Equipment.
5. Other Discussion(s).
6. Public Comments.
7. Adjourn.

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
PERFORMANCE IMPROVEMENT ISSUE (PI) STANDING COMMITTEE MEETING
MARCH 10, 2015

The Board for Licensing Health Care Facilities' Performance Improvement Issue (PI) Standing Committee meeting began on March 10, 2015. John Marshall served as chair for this meeting.

A quorum roll call vote was taken:

Mr. Jim Shulman – not here
Mr. John Marshall – here
Ms. Janet Williford – here
Dr. René Saunders – here
Dr. Michael Miller – not here

A quorum was established.

Ann Reed, Director of the Board for Licensing Health Care Facilities, provided background to this meeting of the PI Standing Committee. The standing committee addressed items left from the home medical equipment subcommittee and new items arising from the January 2015 Board meeting. Ms. Reed also gave a brief history on the inception of this standing committee.

The first item for discussion was the reporting of communicable disease for whom and what diseases are considered communicable in the following regulations: hospital, nursing home, ambulatory surgical treatment center (ASTC), residential hospice, birthing center, HIV supportive living, end stage renal dialysis clinic (ESRD), and outpatient diagnostic center (ODC). Ms. Reed informed the standing committee that this was an item brought before the full Board in January by the ASTC association. John Marshall asked if there was a definition for communicable disease. Ms. Reed indicated the regulations do not contain a definition of this term, but a reference for reportable communicable diseases may be found on the Department of Health's website under the Division of Communicable Disease. Mr. Marshall felt this was sufficient as a resource for licensed facilities with the regulation requiring reporting of communicable diseases to use in determining what to report. Rosalind Kurita with the Department of Health spoke to the standing committee. She agreed with the determination of the standing committee and felt a link to this should be made in the regulations. **Mr. Marshall made a motion to leave language in each referenced section listed above as is and provide in each section the addition of the reference to the Department of Health's website for the definition of communicable disease in the state of Tennessee, seconded by Janet Williford. The motion passed.** Ms. Reed asked if the standing committee could address the "who" portion of the issue. **Mr. Marshall stated the rule is to address the patients of the facility. Mr. Marshall made a motion to include in each referenced section of rules listed above the following language, each patient care of communicable disease, seconded by Ms. Williford. The motion passed.**

The next item for discussion was hospital and nursing home regulation allowing advanced practice registered nurses (APRN) to provide on-call services and to write admission orders. A presentation was made on this issue by Joy Golden with Lakeside Behavioral Health in Memphis. Ms. Golden indicated the Centers for Medicare and Medicaid Services (CMS) allows the practice of APRN to be on-call and to

write admission orders if allowed by the respective state. She further stated the facility would ensure the APRN state guidelines would be followed regarding supervision by a physician and this would be the facility's process. Mr. Marshall questioned if this included physician assistants. Ms. Golden stated her facility does not use physician assistants. Mr. Marshall questioned the credentialing of these practitioners. Ms. Golden indicated the APRN would be credentialed and the facility bylaws would address. Mr. Marshall requested input from the Tennessee Hospital Association (THA). Mike Dietrich spoke on the behalf of THA. He substantiated the allowance by CMS for this practice. Mr. Dietrich went on to state the hospital would need to have a credentialing mechanism in place and proper language for inclusion on the medical staff. Mr. Marshall again asked if the CMS guidance includes physician assistants. The CMS state operations manual (SOM) reference provided to the standing committee does not specifically include physician assistants, but does reference practitioners as allowed by the state to admit patients. Ms. Reed questioned whether the CMS guidance was for specific hospital services or for all hospitals and would the guidance provided by the standing committee be for all licensed hospitals or specific hospitals based upon the type of service they provide. Mr. Dietrich stated it should be for all licensed hospitals. The application of this to nursing homes was discussed as well. Ms. Reed was not certain the CMS guidance for nursing homes is the same issue for hospitals. This may move to an ongoing discussion item and the hospital portion needs to be addressed first. Mr. Dietrich feels the licensure rules could contain permissive language allowing the APRN to admit, write orders, and serve in an on-call position with hospitals doing due diligence for medical staff inclusion, by laws, and credentialing requirements. Ms. Williford asked what other states allow. Mr. Dietrich stated THA could provide that information to the full Board. Kyonzté Hughes-Toombs stated rule language would have to be developed in order to capture the essence of what the standing committee desires and to not have the language be too broad or narrow in its scope. **Mr. Marshall made a motion to have legal counsel present language for change or revision that would allow health care facilities to follow the CMS rules for APRN admitting and writing orders for patients in hospitals and to present this language back to the standing committee for a final recommendation to the full Board, seconded by Ms. Williford. The motion passed.**

The final item for discussion was home medical equipment regulations, 1200-08-29, for review and specific consideration of the interpretative guideline (IG) for 1200-08-29-.06(4) delivery of equipment. Mr. Marshall spoke to the dichotomy of companies that provide supplies that may be ordered online and delivered to an individual's home and commercial pharmacies that provide the same items for sale over the counter to individuals. Each entity must follow two different sets of regulations. Prism Medical Products' President, Chris Cartwright, addressed the standing committee. He gave a brief background to Prism's model for service and they type of equipment/supplies provided. Mr. Cartwright indicated Prism is primarily a provider of supplies for delivery to a person's place of residence and receives instruction on in a physician's office. He further asked if this standing committee could recommend a new interpretative guideline and offered the following thought – the regulation speaks to the nature of the qualification of employees not the delivery of the equipment. Mr. Cartwright recommended an interpretation which addresses the qualification of the employee achieved by training or their use of manufacturer instructions to instruct individuals on how to use the equipment/supply. Ms. Reed recapped for the standing committee direction provided by legal counsel that the law directs what are home medical equipment and the service, but the rules can define how equipment providers train and educate recipients keeping in line with how the individual provider operates. Kyonzté Hughes-Toombs, legal counsel for the Board for Licensing Health Care Facilities, stated the law provides for the Board to have authority over home medical equipment companies that ship goods. She further stated if the standing committee felt training by a physician's office was sufficient to ensure the recipient of the equipment was educated this could be identified in the rules and would require a rule change. Joel

Seager with AtHomes spoke to the standing committee regarding CMS requirement for the supplier of the home medical equipment to provide the actual training, but collaboration with the physician could happen. The bigger concern for AtHomes is possible exclusion of home medical equipment providers from licensure requirements when providing more sophisticated equipment, deliver it by mail, and do not perform a face to face assessment upon delivery of the equipment. More discussion ensued on the model of service followed by Prism. Mr. Cartwright stated a responsibility should be met to provide instruction on how to use the dressings provided by Prism. Ms. Marshall clarified that this happens, is documented, and verified. Mr. Cartwright further stated that the supplies Prism provides aren't by definition home medical equipment per the regulations. Mr. Marshall suggested an alteration to the current interpretative guideline to state, '...delivered home medical equipment must have assessment and education provided by a licensed agency' ending the guideline at the term agency. Ms. Hughes-Toombs spoke to the separation of the different pieces of home medical equipment categories. She further questioned if the supplies provided by Prism meet the definition of home medical equipment via the "Caution..." statement. Ms. Reed indicated the previous subcommittee on home medical equipment had indicated that supplies with this statement were considered home medical equipment. Mr. Cartwright stated none of their products are federally regulated. Ms. Reed questioned if the "Caution..." statement was contained on the Prism products. Mr. Cartwright was not certain. Ms. Reed directed Prism to check their supplies/products for the "Caution..." statement then if not found send a letter to the central office of Health Care Facilities indicating such and to request a determination for the need for licensure. The above action will address the issue for Prism in regards to licensing, but Ms. Reed voiced concern for this remaining an issue for other providers in the future.

Mr. Marshall adjourned the standing committee meeting.