



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
AMENDED**

Date: June 12, 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
and the Facilities Construction Standing Committee
(Call-in Number: 1-888-757-2790 passcode: 457462#)

Date of Meeting: June 23, 2015

Time: 9:00 a.m. – 4:00 p.m., CDT

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.



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
AND THE
FACILITIES CONSTRUCTION STANDING COMMITTEE MEETING**

**JUNE 23, 2015
POPLAR CONFERENCE ROOM, FIRST FLOOR
9:00 a.m. – 4:00 p.m.**

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

Performance Improvement Issue Standing Committee 9:00 a.m. to 11:00 a.m.

1. Call the Meeting to Order and Establish a Quorum.
2. Hospital rule 1200-08-1-.07(4)(a)(b) – Outpatient Services & Dialysis.
3. APN On-Call & Admission Orders Rule Language (follow CMS guidance)
4. Other Discussion(s).
5. Public Comments.
6. Adjourn.

Performance Issue Standing Committee/Facilities Construction Standing Committee 11:00 a.m. to 2:00 p.m.

1. Call the Meeting to Order and Establish a Quorum.
2. Independent Home Dialysis, LLC, Memphis, Licensure Determination Request, End Stage Dialysis Clinic vs. Home Health Agency.

3. Other Discussion(s).
4. Public Comments.
5. Adjourn.

Facilities Construction Standing Committee 2:00 p.m. to 4:00 p.m.

1. Call the Meeting to Order and Establish a Quorum.
2. Approval of Minutes – May 5, 2015 – Facilities Construction Standing Committee Meeting
3. Language Approval for Interpretative Guideline – Assisted Care Living Facility (ACLF) and Home for the Aged (RHA) Disaster Plan, HVAC, and Emergency Generator Regulations 1200-08-25-.16(4) and 1200-08-11-.13(3).
4. ACLF rules 1200-08-25-10(2)(i) -- What is considered “cooking appliances”?
5. Other Discussion(s).
6. Public Comments.
7. Adjourn.

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
PERFORMANCE IMPROVEMENT ISSUE (PI) STANDING COMMITTEE MEETING
JUNE 23, 2015

The Board for Licensing Health Care Facilities' Performance Improvement Issue (PI) Standing Committee meeting began on June 23, 2015. Jim Shulman served as chair for this meeting.

A quorum roll call vote was taken:

Mr. Jim Shulman – here
Mr. John Marshall – not here
Janet Williford – here
Dr. René Saunders – here
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 two items, hospital rule 1200-08-1-.07(4)(a)(b) regarding outpatient services and dialysis and Advanced Practice Nurses providing on-call and admission orders rule language following CMS guidelines.

The first item for discussion was the subject of outpatient services and dialysis in hospitals. The standing committee members were presented with recent inquiries by hospitals on the ability under the current licensure regulations to provide outpatient dialysis services to certain segments of the patient population and the 2010 Board meeting summary where the discussion of providing outpatient dialysis by hospitals was discussed. At the 2010 meeting, the Board opined the hospital's outpatient services regulations allowed a hospital to provide outpatient dialysis services. Ms. Reed provided further information to the standing committee from those providers that were inquiring about providing this service i.e CMS will allow under certain circumstances and payment may not be made by CMS for the services rendered. Legal counsel, Kyonzté Hughes-Toombs, indicated that if CMS states the service can't be provided then the service can't be provided. She further stated the state cannot be less stringent than CMS. Dr. René Saunders stated CMS has indicated no payment for such rendered services; not that CMS regulations prohibit the provision of the services. Mike Dietrich with Tennessee Hospital Association spoke to the standing committee regarding past conversations with CMS in which CMS indicated a hospital could perform dialysis on an outpatient basis without admitting an individual as a resident. Dr. Saunders stated two issues are being discussed here – will CMS pay for the service and does CMS allow a hospital to perform dialysis on an outpatient basis. The West Tennessee Regional Office (WTRO) provided information from the End Stage Renal Dialysis Clinic federal guidelines' Q & A. This Q&A directed that chronic and acute dialysis patients may be dialyzed simultaneously. No payment would be rendered to an acute provider such as a hospital for chronic dialysis services and this service must be provided by a certified dialysis provider. Ms. Hughes-Toombs stated an interpretative guideline (IG) could be done as the regulation does not prohibit a hospital from providing chronic outpatient services, but would need to be clear that the rendering of services has nothing to do with CMS reimbursement. The standing committee moved for the Board's administrative staff and legal counsel to draft an interpretative guideline solidifying the Board's 2010 intent on the provision of dialysis as an

outpatient service of a hospital and to bring that draft back before the standing committee for approval. The IG would also address the lack of reimbursement by CMS for services rendered. Chris Puri spoke to the standing committee requesting a caveat of the specific situation in which outpatient dialysis services may be provided.

The final item for discussion was the presentation of rule language in the hospital and nursing home regulations regarding advanced practice nurses (APN) writing admission orders and providing on-call services. Ms. Hughes-Toombs provided the proposed rule language for the standing committee to review. The proposed language aligns the hospital licensure rules with CMS regulations. The CMS regulations give authority for the APN to write admission orders and to provide on-call services. The standing committee directed legal counsel to make the proposed rule clear that the patient is under the care of a MD or DO even if admission orders are written by an APN. Ms. Hughes-Toombs requested to present approval of the presented rule change language for presentation to the full Board. Dr. Saunders questioned CMS regulation giving authority for this same practice in nursing homes since this language is also a part of the packet under review. The standing committee reviewed a CMS chart outlining the functions of the MD or DO and APNs for specific tasks required for nursing home residents. This chart did not provide the necessary authority. Chris Puri, outside legal counsel for Tennessee Healthcare Association, supported the alignment of CMS regulations with state regulations, but also acknowledged CMS regulations have requirements that specifically direct a MD or DO to complete the task. Legal counsel verified there appeared to be no authority to allow APNs to write admission orders in nursing homes. The standing committee suggested more time be taken by legal counsel to review CMS regulations for authority to allow an APN to write admission orders in nursing homes. Mr. Shulman recommended holding both sets of proposed rule language until the nursing home language authority could be addressed before taking a formal action. Lakeside Hospital voiced support of the proposed hospital rule language.

Mr. Shulman adjourned the standing committee meeting.