



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:** November 30, 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  
Meeting  
**(Call-in Number: 1-888-757-2790 passcode: 457462#)**

**Date of Meeting:** December 15, 2015  
**Time:** 9:00 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.



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**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**

**DECEMBER 15, 2015  
POPLAR CONFERENCE ROOM, FIRST FLOOR  
9:00 a.m. to 12:00 noon**

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

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1. Call the Meeting to Order and Establish a Quorum.
2. Approval of Minutes – June 23, 2015 PI Meeting
3. Interpretative Guideline review regarding ‘annual adequate medical screenings to exclude communicable disease’ language.
4. Hospital rule 1200-08-01-.01(23) for further review by Office of General Counsel (OGC) for exemptions allowed under T.C.A. §63-25-104(b)(6) for rule language change.
5. APN admit and on-call services in nursing homes; further review of CMS regulations to determine if rule language change and present all hospital and nursing home rule language changes for approval.
6. Vent Unit Interpretative Guidelines for further research by industry to present to Standing Committee.
7. Tennessee Ambulatory Surgery Center Association (TASCA) is seeking modification of ASTC Rule 1200-08-10-.06(2)(g) regarding treatment of malignant hyperthermia.
8. Other Discussion(s).
9. Public Comments.
10. Adjourn.

**MINUTES**  
**BOARD FOR LICENSING HEALTH CARE FACILITIES**  
**PERFORMANCE IMPROVEMENT ISSUE STANDING COMMITTEE MEETING**  
**December 15, 2015**

The Board for Licensing Health Care Facilities' Performance Improvement Issue (PI) Standing Committee meeting began on December 15, 2015. Jim Shulman served as chair for this meeting.

A quorum roll call vote was taken:

Mr. Jim Shulman – here  
Mr. John Marshall – here  
Ms. Janet Williford – here  
Dr. René Saunders – here

A quorum was established.

Minutes from the June 23, 2015 stand-alone PI Standing Committee and June 23, 2015 combination meeting with Facilities Construction were reviewed and approved by the PI Standing Committee.

The first item for discussion was review of the interpretative guideline (IG) for 'adequate medical screening to exclude communicable disease'. Ann Reed gave background to this agenda item. Ms. Reed stated this item was initially discussed by this standing committee at the September 17, 2015 meeting. During that discussion, it was felt by the standing committee that this item might be resolved during the Assisted Care Living Facility (ACLF) Standing Committee meeting held September 17, 2015 as the issue of communicable disease was to be discussed during this standing committee. A resolution was not reached during the ACLF Standing Committee so it was determined this item should be brought back before the PI Standing Committee. Ms. Reed further informed the standing committee that additional providers and others have contacted the administrative office for guidance on this rule and IG. The committee was informed the provider which initially brought the issue to the standing committee corrected the deficiency by other means. It was clarified that this rule and IG are for a large number of licensed facility types, but not all and all affected facility types are listed on the IG. Jim Shulman questioned if the term adequate medical screening was defined in the rules. Ms. Reed indicated it was not. She also provided the standing committee with rule language from other states on medical screening requirements. The standing committee reviewed the provided rule language. Dr. René Saunders stated does this committee want to narrow the rule down or leave the language broad so facilities' can interpret what they want to do. John Marshall stated there is CDC guidance which should be followed. Dr. Saunders stated this guidance contains too many infectious/communicable diseases with some being uncommon thus creating a cost prohibitive practice if screening for all is required. Linda Estes, Tennessee Healthcare Association (THCA), addressed the standing committee. She discussed the CDC requirements for tuberculosis (TB) testing which does not include an annual test, but an initial testing unless in a high risk area for TB. Reina Reddish informed the standing committee that home health, hospice, and hospitals follow the same practice. She stated these facility types complete a screening every year on every employee. Ms. Estes stated THCA's member facilities do a checklist which the employee completes regarding symptoms experienced. It was also noted these facilities provide Hepatitis B vaccination free of charge. Mr. Marshall suggested a language which would

allow each facility to define the communicable diseases it would test for in accordance with CDC guidelines. The risk in taking this direction is some facilities may not choose any communicable diseases for which to screen. Martha Gentry with Argentum formerly ALFA supported the requirement for TB testing of employees. She further stated each facility develops its own policy on other communicable disease testing. Mr. Marshall asked if the development by each facility of its own definition of communicable disease testing with maintenance of proper records would be sufficient for surveyors. Ms. Reed indicated it would be if the rule or IG indicates the facility is to develop their own definition or policy on diseases to screen for under communicable diseases relevant to their population. Mr. Shulman asked where this new language would be placed. It was stated if the term adequate medical screenings was to be defined then it would be placed in the definition section of all applicable rules. Paige Proffitt with AMSURG in Nashville and member of the Tennessee Ambulatory Surgery Center Association (TASCA) addressed the standing committee. She asked the standing committee if employees are tested for diseases such as Hepatitis B and C what is to be done with the information if the healthcare worker tests positive. Ms. Proffitt focused on the healthcare worker that tests positive for these communicable diseases to receive proper treatment. **Mr. Marshall made a motion to table the discussion and involve other entities with vested interest in the subject including members of the Department of Health; unsure who seconded. The motion was approved.**

The second item for discussion was consideration of a rule language change for Hospital rule 1200-08-01-.01(24), Dietitian definition. Ms. Reed gave background to this agenda item. She stated this item was brought before the standing committee in September 2015. One portion of the originally presented rule language change was approved by the standing committee and full Board. The definition of dietitian in the hospital rules was discussed. The discussion centered around TCA 63-25-104(b)(6) and any potential exemptions or exclusions found in the law were accounted for as the hospital rule language is changed. It was determined that further research was needed by OGC to clarify the TCA requirements. Dr. Saunders specifically asked about the exemption applying to those individuals serving as a dietitian on a contracted basis. She feels that based upon the TCA in 63 a contracted individual would not meet the exemption. Mr. Shulman clarified with OGC that TCA 63 is indicating if you are employed by a hospital you don't have to be licensed by the Dietitian Board. Ms. Kyonzté Hughes-Toombs, Office of General Counsel (OGC), indicated she feels a contracted dietitian for a hospital would meet the employee requirement. Ms. Reed directed the standing committee and OGC to the hospital rules regarding dietitian services. Dr. Saunders stated the definition for dietitian should include contracted persons. Ms. Hughes-Toombs felt more research should be conducted to determine if employee includes independent contractors, but to move this forward the language recommended by Dr. Saunders can be acted upon. **Mr. Shulman made a motion to send the proposed new language to the full Board with one amendment which would be to say an employee or contractor of a Tennessee hospital to include the Board's legal counsel reviewing for correctness; seconded by Dr. Saunders. Mr. Shulman also directed the Board's legal counsel to discuss this recommended change with John Williams. The motion was approved.**

The third and fourth items for discussion were consideration of rule language changes for advance practice nurse (APN) admit and on-call services in nursing home and approval of APN admit and on-call rule language in the hospital rules. Ms. Reed gave background to this agenda item stating it was determined there was authority via the federal regulations for APN to provide admit and on-call services in hospitals. This standing committee at its June 23, 2015 meeting reviewed hospital rule language on this subject, but did not wish to act on the language until authority could be found for the proposed nursing home rule language. Ms. Hughes-Toombs stated she had reviewed the federal requirements and could not find the same authority and allowance in the nursing home regulations. The PI Standing

Committee was then presented with the hospital rule language allowing expansion of APN services to admit and on-call privileges. Ms. Hughes-Toombs indicated the rule language still needs to assure that a physician certifies the APN orders and this needs to be captured in the hospital's bylaws. Ms. Hughes-Toombs indicated legal staff would edit the presented rule language to include language for physician certification and hospital by-law content on the APN scope of practice in the hospital. **Mr. Marshall made a motion to approve the presented language with the recommended inclusions by OGC; seconded by Dr. Saunders. The motion was approved.**

The fifth item for discussion was the result of further research by relative industry representatives of the ventilator unit IGs presented to this standing committee at the September 2015 meeting. There was one written comment from The Healthcare Center at Standifer Place. All industry associations were asked for comments in advance and were present at this meeting. The comment from Standifer Place inquired about correct or acceptable equipment to patient ratios for emergency suction equipment on ventilators. Gene Gantt provided the rules do not require how many pieces of equipment per patient is needed. The facility must have enough to take care of patients in case of disaster. In addition, Mr. Gantt stated that emergency suction equipment is now inclusive of battery operated devices. He stressed this was not one of the rules up of interpretation. The standing committee then turned their attention to the presented IGs. The industry representatives blessed the IGs as presented. **Mr. Marshall made a motion to approve the presented four (4) IGs regarding ventilator rules; seconded by Ms. Williford. The motion was approved to move to the full Board.**

The last item for discussion was the presentation by the Tennessee Ambulatory Surgery Center Association (TASCA) recommendation for modification of ambulatory surgical treatment center (ASTC) regulation 1200-08-10-.06(2)(g) regarding treatment of malignant hyperthermia. Ms. Gina Throneberry with TASCA presented this request to the standing committee. She stated there is now an additional drug, Ryanodex, which can treat malignant hyperthermia. The rule in question speaks specifically to one drug and the association feels that limits what the ASTCs may have in house to treat malignant hyperthermia. Ms. Throneberry also stated the association would like for an IG to be developed since this is a patient care issue. The standing committee discussed the amount of drug to be captured in the rule. Ms. Throneberry indicated to the standing committee that new drugs enter the market which if the rule is limited to specific drug names will continue to limit and place ASTCs in the present situation with this current rule language. The discussion became focused on the term 'adequate supply' when talking about how much of the medication to have in the facility. Ms. Throneberry indicated this would be a determination made by the anesthesiologist and the facility's governing board. Mr. Marshall recommended using the guidelines of the malignant hyperthermia association to guide what is an 'adequate supply'. Ms. Hughes-Toombs asked if surveyors would know to reference the malignant hyperthermia association's guidance. Ms. Reed stated no not unless specifically placed in the regulations. Ms. Hughes-Toombs stated the standing committee could accept the recommended rule language and create an IG to address 'adequate'. Dr. Saunders questioned whether there were other medications available to treat malignant hyperthermia on the market and felt the rule should accommodate for that possibility. **Mr. Shulman made a motion to accept the presented language by TASCA with a change to the second sentence of the rule to add after *injection* other FDA approved medications along with having an interpretative guideline to come behind the rule change to detail what is acceptable three (3) ampules of one drug and thirty-six (36) ampules of the other; seconded by Dr. Saunders.** Dr. Saunders expressed confusion over the order of the items discussed. Ms. Reed stated the IG being discussed is for a rule that does not exist yet. Mr. Shulman indicated the motion contains the rule language which allows flexibility and then following the rule becoming effective through the rulemaking process the proposed IG will be in effect. He further stated does the standing

committee want to an IG to allow ASTCs to have that option now. The standing committee then discussed if other facility regulations contained this language such as hospitals and asked that legal counsel research this to make sure all relevant facility types are being addressed for this rule change. **The motion was approved for the development of rule language and to move to the full Board.** The standing committee then further discussed the development of an IG. An interpretative guideline would work to address the new rule when it goes into effect and would also be in effect during the rulemaking process to allow the expansion of drugs to use for the treatment of malignant hyperthermia. **Mr. Shulman made a motion to accept the presented IG language by TASCA with inclusion of three (3) ampules of Ryanodex and thirty-six (36) ampules of dantrolene sodium; seconded by Mr. Marshall.** Dr. Saunders voiced concern over the use of the proper name of a drug. Ms. Hughes-Toombs indicated the IG could be approved and she would research the appropriateness of using proper names. **The motion was approved with Dr. Saunders abstaining.**

Mr. Marshall made a motion to adjourn the standing committee meeting; seconded by Ms. Williford. The meeting was adjourned.