



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**

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- 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)

AI 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
PERFORMANCE IMPROVEMENT ISSUE STANDING COMMITTEE MEETING
SEPTEMBER 17, 2015

The Board for Licensing Health Care Facilities' Performance Improvement Issue (PI) Standing Committee meeting began on September 17, 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.

The first item for discussion was language approval for an interpretative guideline (IG) for hospital rule 1200-08-01-.07(4)(a)(b). Ms. Ann Reed, Director of the Board for Licensing Health Care Facilities, addressed the standing committee stating this item was discussed at a previous PI Standing Committee and has been vetted through administrative staff and the Office of General Counsel (OGC). Mr. Marshall indicated the IG concerns the provision of outpatient services by a hospital and these services being provided in accordance with acceptable standards of care and integrated with the other services provided by the hospital. Ms. Reed further stated the IG would address specifically dialysis services provided on an outpatient basis under certain situations and for certain types of patients. **Dr. René Saunders made a motion to accept the IG and move to the full Board meeting; seconded by Mr. Marshall. The motion was approved.**

The second item for discussion was to revisit advance practice nurse (APN) on-call and writing of admission orders in nursing homes and hospitals. This also was an agenda item at the June 23rd PI Standing Committee mtg. At that time, OGC brought forth rule language for the hospital regulations which were acceptable to the standing committee members, but questions remained regarding authority to amend the nursing home rule language presented by OGC to include advance practice nurses providing on-call services and writing admission orders. The standing committee desired for OGC to further research the authority via the federal regulations to amend licensure language regarding APN on-call and writing admission orders. The standing committee also tabled the approval of the amended hospital language until the nursing home language could be further explored and researched by OGC. An IG was developed at this time for the proposed hospital rule amendment concerning the admission of patients under the Admissions, Discharges, and Transfers section of the regulations. Further insight was sought on the nursing home requirements from the federal perspective on APN and their scope of practice in the nursing home. Chris Puri, outside counsel for the Tennessee Health Care Association (THCA), provided limited information and indicated THCA could work with the Department of Health on the research of the federal requirements on this item. **Mr. Marshall made a motion to accept the developed IG for the proposed hospital rule amendments for the Admissions, Discharges, and**

Transfers section of the hospital regulations and move to the full Board meeting; seconded by Dr. Saunders. The motion was approved.

The third item for discussion was proposed hospital rule language for the governance of patient diets. Mr. John Williams, attorney for the State Association of Dietitians, presented the recommended rule language to the standing committee. He stated the background for the proposed language was due to changes in the federal requirements allowing a broader use of dietitians in hospitals and nursing homes. Mr. Williams further emphasized it is within the purview of the hospital to determine how to utilize the qualified dietitian. He also stated he reached out to the Tennessee Hospital Association (THA) and the Tennessee Medical Association on this change. Mr. Williams provided the standing committee members with excerpts from the Dietitian Practice Act which allows a broader use of the dietitian in the ordering of patient diets. There was much discussion by the standing committee on the language of the proposed rule change specifically relating to who has the authority to allow the dietitian to order patient diets. Vincent Davis, Director of the Office of Health Care Facilities, asked why this item was being brought before the Board at this time. Mr. Williams indicated it is to align state facility licensure language with the current scope of the Dietitian Practice Act and with CMS regulatory requirements. Mr. Williams went on to present rule language to 'clean-up' the hospital rule language definition of dietitian. He states that in accordance with Tennessee state law dietitians working in a hospital are not required to be licensed. The language presented is to make it clearer that a dietitian can be accomplished by one of two ways licensed as a dietitian or an employee of a hospital that is exempt from the Tennessee licensure pursuant to state law just referenced and who holds the credential of registered dietitian or registered dietitian nutritionist from a national body giving these credentials. Dr. Saunders questioned all that might be exempt under the state law. Mr. Williams indicated only those dietitians working in a nursing home and hospital. Ms. Janice Skates, Members of the Tennessee Academy Nutrition and Dietetics, indicated she is not sure there are other dietitians that can call themselves dietitians and would have to look at the exemption list, but there are individuals who can practice nutrition who are exempted and work in the WIC programs in public health, but can't call themselves dietitians. Much discussion ensued around the submitted 'clean-up' language, allowable exemption language, and contract employee inclusion. Mr. Marshall questioned if both sets of rule language on dietitians should go forward separately or together. The Office of General Counsel needs time to review how the term employee is applied in the regulations as it relates to the exemption allowance in state law. **Mr. Marshall made a motion to accept the dietitian language as amended to broaden the scope of the dietitian's role in ordering patient diets based upon CMS changes in the hospital regulations and move to the full Board meeting; seconded by Ms. Janet Williford. The motion was approved. Mr. Marshall made a motion to defer the dietitian definition to the next Performance Improvement Standing Committee meeting after direction is received from legal counsel; seconded by Ms. Williford. The motion was approved.**

The fourth item for discussion was interpretative guidelines (IG) for nursing home ventilator rule language. Mr. Gene Gantt presented this item to the standing committee. He stated to the standing committee that his company works with providers in Tennessee such as TennCare and the managed care organizations to improve the quality of ventilator services in licensed nursing homes. Mr. Gantt further stated the ventilator rule language has been in place for a number of years and through his company's review has found that various interpretations of these rules are being applied throughout the state. The first IG to discuss was for rule 1200-08-06-.12(a) which speaks to a respiratory therapist onsite 24 hours per day/7 days per week. The interpretation of this rule would indicate that a respiratory therapist be physically present on the designated ventilator unit as opposed to taking care of patients on another floor outside of this area. The second IG was for the rule which defines ventilator

care. The question that often arises is can a ventilator be used outside of a ventilator unit on a nursing home patient and be used as a bipap when the ventilator is FDA certified as a ventilator even when other devices would work. The interpretation would simply state the definition would be any device FDA approved as a ventilator used either invasively or non-invasively regardless of the mode of use. Mr. Marshall sought clarification that a ventilator FDA approved as a ventilator should not be used just as a bipap device somewhere else in the facility. Mr. Gantt indicated this is correct. The third IG is the definition of physician as used in the ventilator unit regulations. Mr. Gantt states that he has seen where facilities indicate the physician has experience in ventilator care, but the level of experience was when the physician was a resident for example in 1972. This was not the intent of the rule. Mr. Gantt stated the interpretation would be a physician Board Certified in Pulmonary Disease or Critical Care Medicine recognized by either the American Board of Medical Specialties for MDs or the American Osteopathic Association for DOs or an Internist Intensive currently in ICU practice. The fourth IG is the rule concerning Arterial Blood Gases (ABGs). This rule indicates this blood test needs to be readily available in order to document the patient's acid base balance status and/or End Tidal Carbon Dioxide (ETCO₂) and continuous pulse oximetry should be performed in lieu of blood gas studies. The concern is the term 'readily available'. It has been widely interpreted by facilities with some instances being sending blood draws to a hospital lab 45 minutes away. It is preferred that noninvasive technology such as pulse oximetry and ETCO₂ is used rather than ABGs with 'readily available' being defined as onsite vs. offsite. The presented interpretations to the rule are in line with the intent to improve quality and performance of the skilled nursing facilities in providing ventilator care. Mr. Marshall verified with Bill Harmon there were no life safety issues with any of these recommended IGs. Mr. Harmon indicated there were none. Dr. Saunders had many questions related to licensed nursing homes providing ventilator care and why these facilities would be special i.e. their capacity is different. Mr. Gantt gave an explanation on nursing homes providing ventilator services. Dr. Saunders stated this appears to be more of rural setting issue and that a requirement for a higher standard be in place in the nursing home vs a hospital setting. Mr. Gantt indicated it may be a higher level of care than provided in some hospitals. Dr. Saunders voiced a concern over the IG to have a higher level physician available in a nursing home. She indicated the rural hospital she practices in does not have this level of a physician. Mr. Marshall indicated the nursing home environment for staffing is much different than a hospital and there may only be nursing personnel available in the facility especially during the night time hours. Mr. Gantt stated the nursing homes are caring for a larger number of ventilator patients for months and/or to the end of life where in a rural hospital setting there may be one or two patients at a time and a patient that will improve. Those patients found in the nursing home have already been in the rural hospital setting, the Vanderbilts, and long-term acute care hospital settings. Dr. Saunders continued to state the language was too restrictive and had further questions to understand why the requirement should be so restrictive. She questioned how the respiratory therapist was present in the facility. Mr. Gantt stated the respiratory therapist would be on the ventilator unit and/or by the bedside. The concern is the patient becoming disconnected from the ventilator and having proper intervention when this occurs. The discussion continued around the limited number of licensed nurses being required in the licensed nursing home setting versus the hospital setting where a ventilator patient may be in an ICU setting with a ratio of one nurse vs one to two patients. Mr. Marshall asked if a representative from the nursing home industry was present in the audience and wished to make a comment. Mr. Gantt also added that the role of the respiratory therapist was not only to address any alarms, but the weaning of the ventilator patients from the use of the ventilator. The receipt of TennCare funding by these facilities is dependent upon meeting these regulations as well. Reina Reddish with Tennessee Health Care Association (THCA) spoke to the standing committee on behalf of Linda Estes. She stated that THCA has not seen these suggested IGs and would like the opportunity to review and share with members for feedback before the standing committee moves forward on the IGs. Dr. Saunders recommended tabling

the item and inviting other comments then bringing the item back to the standing committee at its next meeting. Mr. Gantt asked for one of the IGs to be considered at this meeting due to patient safety concerns which was the 'readily available' IG. The standing committee members asked if just one IG could be approved and the others deferred to another meeting. Ms. Reed indicated this could be done. Mr. Gantt also expressed a concern for addressing the definition of ventilator care. Ms. Reed supported this request as many calls and/or e-mails are coming to the administrative staff about the use of ventilators for non-ventilator care. Stacia Vetter with National Healthcare Corporation (NHC) addressed the standing committee. She stated her organization would also like the opportunity to vet the proposed interpretative guidelines before the standing committee today. Chris Puri, outside legal counsel for THCA, spoke to the standing committee regarding the presence of parallel rules in TennCare for reimbursement and then for services. He wants to ensure consistency between both sets of regulations if these IGs are approved. Dr. Saunders did not feel this standing committee should concern itself with the reimbursement requirements, but that reviewing further might not be warranted. Mr. Gantt indicated the payer (TennCare) is pushing some of these changes in the service regulations' interpretation and the IGs were vetted by TennCare and the MCOs prior to presenting today. Mr. Puri continued with the desire to further review these IGs next to the TennCare reimbursement rules. Mr. Gantt stated the drive is not payer related, but rather quality focused even from the payer perspective. Ms. Reddish stated she wasn't certain a facility could be in compliance with these IGs if passed tomorrow by the full Board. There would not be proper notification to facilities. Ms. Reed indicated the approved IGs would be put on the Department of Health's website and would be shared with provider associations such as THCA, etc. Mr. Gantt reiterated the presentation of these IGs is a safety/care issue which is governed by this Board. He also stated TennCare is concerned with the safety aspect as well. Mr. Puri indicated that TennCare could refuse to pay for the ventilator services based upon their regulations if they interpret certain items are not being met by the facility. **Dr. Saunders made a motion to table these recommendations until they can be more thoroughly researched; seconded by Ms. Williford. The motion was approved.**

The final item for discussion was clarification of Professional Support Services Rule, proof of adequate medical screenings to exclude communicable disease. Teresa Anderson with Developmental Services in Dickson sought this clarification from the standing committee following her most recent annual survey at which time her facility was cited for not meeting this requirement. She presented her research around the interpretative guideline (IG) for the adequate medical screening language and the costs associated with having all employees provided with screening by a physician to ensure the employees are free of communicable disease. Ms. Anderson indicated she had used the provided tool to determine risk for tuberculosis (TB) prior to her facility's most recent survey. She further stated she reviewed the CDC website, but was unable to find clarity for this item. Ms. Anderson said after all this research and communication with others the question became what constitutes adequate medical screening and what does it really meant; what frequency should the screenings be done; who should perform the screenings; and what communicable diseases are being targeted. Ms. Reed stated to the standing committee that the term 'communicable disease' repeatedly comes up before the full Board and/or standing committees. She indicated that the Assisted Care Living Facility (ACLF) Standing Committee is later today looking at an IG around the term 'communicable disease'. Ms. Reed also pointed the standing committee to the Department of Health's website which has a listing of reportable communicable diseases which is some guidance. Mr. Marshall felt the IG to be considered by the ACLF Standing Committee could be useful to this item and create consistency among all areas of the regulations. Dr. Saunders embarked on the question of how often should the screening be done and deferred to an annual timeframe, but felt the afternoon discussion might offer a better option so she suggested tabling this item until the ACLF Standing Committee met to discuss the communicable disease

IG on that agenda. As the discussion continued, Mr. Marshall suggested looking at other states' requirements. Ms. Anderson stated the survey who conducted her survey felt it had to be a practitioner that made the statement an employee was free of a communicable disease. **Ms. Williford made a motion to defer this item until the meeting of the ACLF Standing Committee as far as identifying communicable diseases and if there is a result which can be brought back to the full Board to address this issue that would be done; seconded by Dr. Saunders. The motion was approved.**

Mr. Marshall adjourned the standing committee meeting.