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**TENNESSEE DEPARTMENT OF HEALTH
MEMORANDUM
AMENDED**

Date: November 9, 2016
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-Assisted Care Living Facility Standing Committee Meeting
(Call-in Number: 1-888-757-2790 passcode: 457462#)

Date of Meeting: November 14, 2016
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.



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
ASSISTED CARE LIVING FACILITY STANDING COMMITTEE MEETING**

**NOVEMBER 14, 2016
POPLAR CONFERENCE ROOM, FIRST FLOOR
9:00 a.m. – 12:00 NOON, CST**

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

1. Call the Meeting to Order and Establish a Quorum.
2. **CEDAR HILLS SENIOR LIVING FACILITY, COOKEVILLE**
This fifty-five (55) bed assisted care living facility is requesting to waive the licensure requirement 1200-08-25-.08(4)(a) & (b) regarding the continual stay of a resident. The resident's family is totally responsible for the care of the gastrostomy tube. Cedar Hills Senior Living Facility is willing to assist with his Activities of Daily Living that are needed.

Facility Representative(s): Jenene Jones, Executive Director
Family Representative(s): Kim Thompson
3. Other Discussion(s).
4. Public Comments.
5. Adjourn.

**MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
ASSISTED CARE LIVING FACILITY (ACLF)
STANDING COMMITTEE MEETING**

NOVEMBER 14, 2016

The Board for Licensing Health Care Facilities' Assisted Care Living Facility (ACLF) Standing Committee meeting began November 14, 2016. Joshua Crisp, Chairman, called the meeting to order.

A quorum roll call vote was taken:

Mr. Joshua Crisp – here
Dr. Sherry Robbins – here (in at 9:07 am)
Ms. Carissa Lynch – here (in at 9:12 am)
Ms. Annette Marlar – here
Mr. Roger Mynatt – here
Dr. René Saunders - here

A quorum was established.

The first and only agenda item for discussion was request of Cedar Hills Senior Living Facility, Cookeville. The facility is a 55 bed licensed assisted care living facility (ACLF) that is requesting to waive ACLF rule 1200-08-25-.08(4)(a)&(b) regarding continual stay of a resident. The resident's family will be responsible for the care of the gastrostomy tube and the facility is to assist with the activities of daily living (ADLs) that are needed. Representatives for the facility are Jenene Jones and the family representative is Kim Thompson. Mr. Crisp asked Ann Reed, Director of the Board for Licensing Health Care Facilities, to give background to this agenda item. Ms. Reed directed the standing committee members to focus on pages 15-16 and 19 of the ACLF regulations which apply to the request. She stated the standing committee was being asked to determine if the care of the g-tube by family as well as medication administration via the g-tube was allowable per the ACLF regulations and/or if a waiver of any of the relative rules found on the referenced pages above were needed. The standing committee members questioned the scope of this committee to approve a waiver. Ms. Reed stated the standing committee would make a recommendation to approve a waiver or other action and this would be brought to the full Board at the February 2017 meeting for a final vote. Jenene Jones addressed the standing committee. She stated the facility has nurses on staff who could administer medication, but the family has voiced their willingness to do all care including medication administrator so the facility felt it was best to leave this in the family's hands. Both Ms. Jones and Kim Thompson stated the potential resident in question is cognitive, ambulates slowly, requires some assistance with activities of daily living (ADLs), and needs assistance with toileting due to some incontinence. The facility has completed a pre-admission assessment of the potential resident. Dr. René Saunders asked if this individual's medication would be left in his room. Ms. Jones stated under the self-administration of medications by a resident the medications of that resident would be left in their room. Mr. Crisp asked about Adult Protective Services (APS) involvement with this individual and family. Ms. Jones deferred to the family for that information. Ms. Thompson gave more information regarding APS involvement. The involvement was due to a report of misappropriation of funds. APS did not validate the report and felt the individual as well as his spouse should be in an ACLF. Dr. Saunders questioned why APS felt an ACLF level of care was more appropriate than 24 hour care at home. Ms. Thompson stated there are issues at

the home relative to the caregivers. It was further questioned why a nursing home would not be appropriate. Ms. Thompson stated her mother would not meet the nursing home requirements. Ms. Thompson went on to further state her family members have dual powers of attorney (POAs) which makes things difficult at home. There are issues with the reliability of caregivers and problems between the caregivers and one of the POAs. Ms. Thompson stated if there were reliable caregivers then parents could remain in the home. It is felt the ACLF is the best overall scenario for this couple which was affirmed by APS. Ms. Thompson stated her parents' physician also supports. Dr. Sherry Robbins asked about the plan for the g-tube feedings and medication administration. Ms. Thompson stated there are many family members available to provide the necessary care and assistance. They have been doing this for the last two years. The facility was concerned about weather impacting the family's ability to be in house to provide care. Ms. Thompson stated this would not be an issue and that family would make it to the facility no matter the conditions to provide care. Annette Marlar focused on the APS letter submitted to the Board which described the limitations of the spouse who would be a caregiver at the ACLF. Ms. Marlar felt the spouse could not be considered a viable caregiver given her memory deficits. She is also concerned about the other aspects of the potential resident's care needs and not meeting the ACLF rules. Dr. Saunders agrees with this being important and needing to be considered. Ms. Jones read the assessment completed by the Director of Nursing (DON) of the facility which stated the individual was appropriate for admission to the ACLF. Mr. Crisp restated the facility and family have developed an informal plan of care. He further stated the facility has deemed the individual appropriate for admission. Mr. Crisp stated he would prefer to have an interdisciplinary team (IDT) review in place on an ongoing basis if this individual was admitted to the facility. This would be to determine if the plan in place is still working. He stated the facility is ultimately responsible for the care coordination and if the care coordination was not present the facility would give notice of discharge to a higher level of care. Dr. Robbins stated the ACLF is to be a 'home like' environment. She also asked if the facility had a social worker and a physician to visit the facility. Ms. Jones stated the facility has a social worker on staff and a nurse practitioner that visits weekly. Dr. Robbins also wants the IDT approach taken. Ms. Jones stated the facility will verify the family's care assistance is being provided via follow-ups and the use of checklists. Mr. Crisp asked if the Board has waived this in the past. Ms. Reed stated yes; only for a g-tube providing feedings and not medication administration. Kyonzté Hughes-Toombs, Office of General Counsel, clarified that the rule in being discussed regarding self-care of the g-tube is in statute, but the term 'self-care' is not defined. She further stated this is not a legal requirement to define and is under the Board's purview to define. Ms. Marlar expressed the desire for the term 'self-care' to be defined. She stated someone doing something for you is not self-care. Ms. Marlar recommended an interpretation of who can assist as well as define 'self-care'. She stated the terminology 'assist with care' is defined and used throughout the regulations. Roger Mynatt questioned setting a precedent by recommending a waiver of this rule; how many more would come to the Board if this recommendation is followed upon. Ms. Reed stated it has been three years since the last request regarding this rule has come before the Board. She also stated it is the nature of the Board's work that at any time a provider may request a waiver of any one of the rules the Board has promulgated. *******Dr. Saunders made a motion to table this request until a physician statement and IDT assessment with focus on medication administration via the g-tube could be completed and provided to the ACLF Standing Committee; seconded by Ms. Marlar. A roll call vote was taken – Mr. Crisp – No; Carissa Lynch – Yes; Ms. Marlar – Yes; Mr. Mynatt - Yes; Dr. Robbins – No; and Dr. Saunders – Yes. The motion was approved by a vote of four to two.*******

Ms. Marlar asked does the standing committee need to look at the ACLF regulations or continue to issue waivers. She stated as trends and issues arise should the rules and regulations be adjusted. Ms. Marlar stated it is difficult for providers to interpret the rules and regulations and if the rules and regulations

were addressed providers may be able to handle certain situations they are faced with or without coming before the Board. Mr. Crisp stated this could be addressed today by opening the conversation under new business by picking specific rules and regulations to address. Ms. Hughes-Toombs indicated that addressing specific regulations would need to be sunshined so the specific regulations could be determined now and then addressed at the next meeting. Ms. Marlar felt the next meeting would be appropriate to address. She then identified specific regulations she would like addressed starting with the rule being discussed today, 1200-08-25-.08(4)(a) & (b). Dr. Robbins indicated additional items to review such as discharge notice requirements. She stated these are not the same for facilities and renter's protection requirements. Dr. Robbins also wants the transfer requirements of the ACLF regulations reviewed as it relates to an ER physician stating a resident is appropriate for transfer back to the facility and the facility indicating the resident is not appropriate. Mr. Crisp asked for legal counsel to review the statutes and rules and regulations for ACLFs to determine the ability of the Board to make changes to the regulations and at what level changes can be made. Dr. Saunders stated that there may be changes coming with the new Presidential administration and the Affordable Care Act.

Dr. Robbins had one point of clarification needed related to the request brought before the standing committee. She asked if a physician must approve appropriateness of a resident before a facility admits the resident. Ms. Jones indicated yes. Dr. Robbins also asked if APS will be okay with this individual's continued residency at home. Caroline Tippens, Office of General Counsel, stated the letter from APS was a recommendation not a mandate.

There was no more business of the ACLF Standing Committee conducted. **A motion was made and approved to adjourn the meeting.**