



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. Open meeting notices can also be accessed at <https://www.tn.gov/health/calendar.html>.

**TENNESSEE DEPARTMENT OF HEALTH
MEMORANDUM**

Date: September 3, 2020

To: Shelley Walker, Director of Communications and Media Relations

From: Wanda E. Hines, Board Administrator

Name of Board or Committee: Board for Licensing Health Care Facilities/Emergency WebEx Board Meeting

Date of Meeting: September 8, 2020

Time: 9:00 a.m., Central Time

Place: Iris Conference Room
665 Mainstream Drive, First Floor
Nashville, TN 37243

WebEx Event: Due to COVID-19 considerations, please join us in our virtual meeting which is open to the public using the instructions below.

During the meeting, please join using the information below:

Join online as an attendee:

Meeting Link:

<https://tngov.webex.com/tngov/onstage/g.php?MTID=e639f0f373f0a3de55fa756f802e80057>

Event Number: 171 001 6314

Event Password: HCF2020

Join the meeting audio conference only

To join the meeting telephonically call the number below and enter the access code.

US TOLL +1-415-655-0003

Event number/Access code: 171 001 6314

Major Item(s) on Agenda: See Attached Agenda

Board members will be participating by WebEx Event.

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.

PH-1850 (Rev. 3/79)

RDA N/A

LISA PIERCEY, MD, MBA, FAAP
COMMISSIONER

BILL LEE
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
EMERGENCY WEBEX BOARD MEETING**

SEPTEMBER 8, 2020

**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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1. Call the Meeting to Order and Establish a Quorum.
 2. Waiver of the Emergency State Testing Rules in Light of the New CMS Testing Rules.
 3. Revision of Board Policy #82.
 4. Public Comments.
 5. Adjournment of Meeting.

**MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
EMERGENCY CALLED WEBEX BOARD MEETING
SEPTEMBER 8, 2020**

The Board for Licensing Health Care Facilities Emergency Called WebEx Meeting began on September 8, 2020. Dr. Renè Saunders, chair, called the meeting to order.

A quorum roll call vote was taken:

Mr. Paul Boyd- here
Mr. Robert Breeden- here
Dr. Evelyn Brock – not here
Mr. Louis Caputo – not here
Ms. Patsy Crihfield- here
Mr. Joshua Crisp- here
Mr. Chuck Griffin- here
Dr. Julie Jetter – not here
Ms. Patricia Ketterman- here
Mr. Roger Mynatt- here
Ms. Susan Peach – not here
Dr. Sherry Robbins- here
Dr. Renè Saunders- here
Mr. Jim Shulman- here
Ms. Gina Throneberry- here
Ms. Janet Williford – not here
Mr. Bobby Wood – not here

A quorum was established.

A roll call vote was taken for the ability to hear each participant on the phone:

Mr. Paul Boyd- yes
Mr. Robert Breeden- yes
Ms. Patsy Crihfield- yes
Mr. Joshua Crisp- yes
Mr. Chuck Griffin- yes
Ms. Patricia Ketterman- yes
Mr. Roger Mynatt- yes
Dr. Sherry Robbins- yes
Dr. Renè Saunders- yes
Mr. Jim Shulman- yes
Ms. Gina Throneberry- yes

Mr. Crisp made a motion to proceed forward with an electronic meeting; Dr. Robbins seconded.

A roll call vote was taken:

Mr. Paul Boyd- yes
Mr. Robert Breeden- yes
Ms. Patsy Crihfield- yes
Mr. Joshua Crisp- yes
Mr. Chuck Griffin- yes
Ms. Patricia Ketterman- yes
Mr. Roger Mynatt- yes
Dr. Sherry Robbins- yes
Dr. Renè Saunders- yes
Mr. Jim Shulman- yes
Ms. Gina Throneberry- yes

The motion was approved.

A roll call vote was taken that the matter being discussed electronically met statutory requirements:

Mr. Crisp made a motion that the statutory requirement was met; Mr. Griffin seconded.

A roll call vote was taken:

Mr. Paul Boyd- yes
Mr. Robert Breeden- yes
Ms. Patsy Crihfield- yes
Mr. Joshua Crisp- yes
Mr. Chuck Griffin- yes
Ms. Patricia Ketterman- yes
Mr. Roger Mynatt- yes
Dr. Sherry Robbins- yes
Dr. Renè Saunders- yes
Mr. Jim Shulman- yes
Ms. Gina Throneberry- yes

The motion was approved.

The first item for discussion was to the waiver of the emergency state testing rules in light of the new CMS testing rules. Ms. Caroline Tippens gave a brief summary regarding the item. She stated that the state Nursing Home rules and CMS rules were inconsistent with each other. The state proposed the rule 1200-08-06-.06(j) be waived for any Tennessee licensed skilled nursing facility/nursing facility that is certified by the Centers for Medicare and Medicaid Services (CMS) and is required to comply with the provisions of the 42 C.F.R. 483.80(h) COVID-19 testing. For these certified skilled nursing/nursing facilities, compliance with the Board for Licensing Health Care Facilities Emergency Rule 1200-08-06-306(j), is waived pursuant to T.C.A. 68-11-209, effective October 1, 2020. Ms. Tippens read the new interpretative guidance (IG) into record and stated Dr. Tim Jones was available to respond to questions. She also introduced Chris Puri who had comments. Mr. Puri stated he was outside counsel for Tennessee Health Care Association (THCA). He further stated the federal rules referenced by Ms. Tippens went into effect September 2, 2020. Mr. Puri stated THCA desires for this waiver to be adopted. This would make the

burden for compliance simpler. It was clarified that there was only one state only licensed nursing home. Dr. Saunders asked what regulatory requirement the licensed only nursing home will follow. Ms. Tippens stated the state licensure rule. Mr. Mynatt asked about reimbursement for testing. Ms. Tippens deferred to Dr. Jones for response, stated the rules do not address payment, and the IG would become effective October 1, 2020. Dr. Jones stated the reimbursement item should not affect decision making on the presented waiver. He further stated the state will address this issue separately. Mr. Breeden sought clarification if more frequent testing can continue considering the new CMS requirement. Mr. Mynatt questioned the federal numbers regarding testing not matching state numbers for testing. Dr. Jones stated awareness of this and that CMS numbers are two weeks behind.

Mr. Shulman made a motion to adopt the presented IG; Mr. Caputo seconded.

A roll call vote was taken:

Mr. Paul Boyd- yes
Mr. Robert Breeden- yes
Ms. Patsy Crihfield- yes
Mr. Joshua Crisp- yes
Mr. Chuck Griffin- yes
Ms. Patricia Ketterman- yes
Mr. Roger Mynatt- yes
Dr. Sherry Robbins- yes
Dr. Renè Saunders- abstain
Mr. Jim Shulman- yes
Ms. Gina Throneberry- yes

The motion was approved.

The second item for discussion was the revision of Board Policy #82; interpretation and temporary waiver of rules related to treatment and containment of COVID-19. Ms. Tippens read into the record the updated Board Policy #82 including 'Attachment K' stating CMS QSO-20-38-NH shall be followed regarding testing of patients/residents for COVID-19 in CMS skilled nursing facilities/nursing facilities.

Mr. Shulman made a motion to accept the updated Board Policy #82; Mr. Mynatt seconded.

A roll call vote was taken:

Mr. Paul Boyd- yes
Mr. Robert Breeden- yes
Ms. Patsy Crihfield- yes
Mr. Joshua Crisp- yes
Mr. Chuck Griffin- yes
Ms. Patricia Ketterman- yes
Mr. Roger Mynatt- yes
Dr. Sherry Robbins- yes
Dr. Renè Saunders- abstain
Mr. Jim Shulman- yes
Ms. Gina Throneberry- yes

The motion was approved.

The meeting was adjourned.