



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: February 6, 2017
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: 152602#)

Date of Meeting: February 8, 2017
Time: 9:00 a.m. CST
Place: Iris Conference Room
665 Mainstream Drive, First Floor
Nashville, TN 37243
Major Item(s) on Agenda: See Attached Agenda

Link to Live Video Stream:

February 8, 2017

<https://web.nowuseeit.tn.gov/Mediasite/Play/a3bc7fb25b8d474ebbbf6311a71c3ab71d>

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

FEBRUARY 8, 2017

IRIS CONFERENCE ROOM, FIRST FLOOR

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

1. **WELCOME NEW BOARD MEMBERS:** New Appointment of Gina Throneberry, Ambulatory Surgical Treatment Center Representative.
2. **CALL THE MEETING TO ORDER AND ESTABLISH A QUORUM.**
3. **CONTESTED CASE HEARING(S).**
4. **RULEMAKING HEARINGS-**Notice of Rulemaking Hearings can be viewed online at http://share.tn.gov/sos/rules_filings/09-12-16.pdf.
 - A. 1200-08-01 Standards for Hospitals
 - 1200-08-01-.01 Definitions
 - 1200-08-01-.05 Admissions, Discharges, and Transfers
 - 1200-08-01-.07 Optional Hospital Services
 - 1200-08-06 Standards for Nursing Homes
 - 1200-08-06-.01 Definitions
 - 1200-08-10 Standards for Ambulatory Surgical Treatment Centers
 - 1200-08-10-.04 Administration
 - 1200-08-10-.11 Records and Reports
 - 1200-08-11 Standards for Homes for the Aged

1200-08-11-.01 Definitions

1200-08-25 Standards for Assisted-Care Living Facilities

1200-08-25-.02 Definitions

1200-08-25-.03 Licensing Requirements

1200-08-25-.07 Services Provided

1200-08-25-.08 Admissions, Discharges, and Transfers

1200-08-25-.10 Life Safety

1200-08-29 Standards for Home Care Organizations Providing Home Medical Equipment

1200-08-29-.11 Records and Reports

1200-08-34 Standards for Home Care Organizations Providing Professional Support Services

1200-08-34-.05 Admissions, Discharges, and Transfers

5. LICENSE STATUS REQUESTS.

MIDDLE TENNESSEE CENTER FOR AMBULATORY SURGERY AND TREATMENT CENTER, SHELBYVILLE F/K/A CENTER FOR SURGICAL SPECIALTIES, SHELBYVILLE

This Ambulatory Surgery and Treatment Center is seeking to place their license on inactive status. This ASTC facility had a change of ownership and name change.

Representative(s): Toni Canonico, R.N., Administrator

BELCOURT TERRACE NURSING HOME, NASHVILLE

This forty-nine (49) bed nursing home facility is requesting an extension waiver for their license to remain on inactive status. Belcourt Terrace Nursing Home ceased operating last year and inactive status was granted January 2016 through January 2017.

Representative(s): Michaela Poizner, Attorney

MORGAN CARES SENIOR CARE FACILITY, LLC, MEMPHIS

This eleven (11) bed Residential Home for the Aged (RHA) facility is seeking to place their license on inactive status. There are no residents residing in this RHA at this time. Morgan Cares is seeking to place their license on inactive status due to illness and restructuring of the company.

Representative(s): Michelle Fifer, Executive Director/Administrator

RIDGEMONT MANOR #1, MEMPHIS

This twelve (12) bed assisted care living facility is seeking to place their license on inactive status. The Ridgemont Manor #1 is seeking to offer Alcohol and Drug Residential Detoxification Treatment at the location. If this program does not work within the next six months to a year, they would like to resume the ACLF program. All residents that were housed at Ridgemont Manor #1 are no longer in this ACLF facility and have been transferred to their other locations.

Representative(s): Patricia Hughes

WAYNE CARE NURSING HOME, WAYNESBORO

This forty-six (46) bed nursing home is requesting a second extension waiver of 24-months for their license to remain on inactive status pending completion of the CON project. Wayne Health & Rehabilitation Center was granted a 24-month extension of their CON to April 1, 2019. The CON project is moving forward and Wayne Health & Rehabilitation Center has requested to keep the 46 bed Wayne Care Nursing Home license on inactive status as they go through this process. This facility's license was placed on inactive status on September 10, 2014 which expired on May 10, 2015 and an extension waiver was granted on September 7, 2016 that will expire February 2017.

Representative(s): Chris Puri, Attorney

UNION CITY SURGERY CENTER, UNION CITY

This ambulatory surgical treatment center (ASTC) is seeking to place their license on inactive status for a period of one (1) year. Union City Surgery Center because of declining utilization a proposal is under active review and a definitive plan should be finalized in the near future.

Representative(s): Dan Elrod, Attorney

BAPTIST MEMORIAL-MEMPHIS SKILLED NURSING FACILITY, MEMPHIS

This thirty-five (35) bed skilled nursing unit at Baptist Memorial Hospital-Memphis is requesting a fourth extension for their license to remain on inactive status for an additional twelve (12) months. The Baptist Memorial Hospital organization is actively working on a plan for future use of the skilled nursing beds. A definitive plan for use of the skilled beds is expected to be completed in the next several months. Baptist Memorial Hospital-Memphis was granted an inactive status waiver on February 7, 2013 for twelve (12) month; an extension inactive status waiver was granted on January 23, 2014 for twelve (12) months; and a second extension inactive status waiver for additional twelve (12) months was granted January 15, 2015; and a third extension inactive status waiver for additional twelve (12) months was granted January 14, 2016 which will expire on February 7, 2017.

Representative(s): Dan Elrod, Attorney

**BAPTIST SKILLED REHABILITATION UNIT-GERMANTOWN,
GERMANTOWN**

This eighteen (18) bed skilled nursing unit at Baptist Rehabilitation-Germantown is requesting a second extension for their license to remain on inactive status for an additional twelve (12) months. The Baptist Memorial Hospital organization is actively working on a plan for future use of the skilled nursing beds. A definitive plan for use of the skilled beds is expected to be completed in the next several months. Baptist Skilled Rehabilitation Unit-Germantown was granted an inactive status waiver on January 21, 2015 for twelve (12) month; an extension inactive status waiver was granted January 14, 2016 which will expire on February 7, 2017.

Representative(s): Dan Elrod, Attorney

SCOTT COUNTY COMMUNITY HOSPITAL, INC., ONEIDA F/K/A PIONEER COMMUNITY HOSPITAL OF SCOTT COUNTY, ONEIDA

This one hundred and one (101) bed facility license was on inactive status which will expire on February 2017. Scott County Community Hospital, Inc. is requesting their license to become active status as quickly as possible. They will be updating their plans of reopening the facility under new ownership to serve their citizens in Scott County and surrounding counties.

Representative(s): Tony Taylor, Administrator, Michael Goldberg and John Beaty

UPPER CUMBERLAND HOSPICE AND PALLIATIVE CARE, LLC, COOKEVILLE #9

Upper Cumberland Hospital and Palliative Care, LLC, Cookeville, a ten (10) bed residential hospice facility is seeking to place their license on inactive status. This facility provides residential hospice service at the 570 State Street, Cookeville location. The current lease has expired and operations are inactive at this time. Hospice of Chattanooga are exploring ways in which residential hospice may resumed in this community as there is a continuing need for such services.

Representative(s): Bryon R. Trauger, Attorney

UPPER CUMBERLAND HOSPICE OF CHATTANOOGA, COOKEVILLE #622

Upper Cumberland Hospice of Chattanooga, Cookeville, hospice service is seeking to place their licenses on inactive status. This facility provides hospice service at the 570 State Street, Cookeville location. The current lease has expired and operations are inactive at this time. Hospice of Chattanooga are exploring ways in which hospice services may resumed in this community as there is a continuing need for such services.

Representative(s): Byron R. Trauger, Attorney

6. 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) Whitehaven Community Living Center, Memphis
- Joyce Course, Interim Administrator
- (2) Kindred Nursing and Rehabilitation-Smith County, Carthage
-Rachael Asermily, Interim Administrator
- (3) Signature Healthcare at Methodist, Memphis
-Thomas Charles Isaak, Jr., Interim Administrator
- (4) Cumberland Village Center, LaFollette
-Rebecca Ausmus, Interim Administrator and

B. OTHER WAIVER REQUEST(S)

JACKSON-MADISON COUNTY GENERAL HOSPITAL, JACKSON

This six hundred thirty-five (635) bed hospital, including five hundred five-three (553) general acute care beds is requesting to increase their general acute care beds count by fifty-five (55) beds. This request is made pursuant to the Tennessee Health Services and Development Agency statute T.C.A. § 68-11-1607(g). These rooms will be used for additional licensed beds previously used as inpatient rooms and are currently being used for observation patients.

Representative(s): Dan Elrod, Attorney

LAURESTINE RESIDENTIAL CARE HOME, MEMPHIS

This six (6) bed residential home for the aged is seeking a waiver of the definition of “ambulatory” for a resident housed at Laurestine Care Home in order to allow a resident to remain at the facility.

Representative(s): Dee Lynn Colbert, Assistant Administrator

PARKWEST MEDICAL CENTER, KNOXVILLE

This three hundred seven (307) bed hospital, including two hundred ninety-one (291) general acute care beds and sixteen (16) adult geropsychiatric beds. Parkwest is requesting to increase their general acute care beds count by twenty-nine (29) beds and one (1) geropsychiatric bed without a CON. This request is made pursuant to the Tennessee Health Services and Development Agency statute T.C.A. § 68-11-1607(g). These proposed beds will be located on Parkwest’s existing campus.

Representative(s): Dan Elrod, Attorney

7. DISCUSSION(S).

- A.** Tennessee Board for Licensing Health Care Facilities 2015 Performance Audit Report Updates on progress to address identified items. – Vincent Davis, Director
- B.** Revisit-Public Chapter 1043-Development of Quality Measures and Standards-Changes to Certificate of Need.
- C.** Revisit-Board Policy #57 – General Hospital Discontinuation of OB Services.
- D.** **REVISIT-RIVER OAKS PLACE-LOUDON, LOUDON**
This forty-nine (49) bed ACLF is requesting a waiver of the regulation to the extent necessary for the Board to determine if the facility is in compliance with the regulations. River Oaks Place-Loudon was originally cited during a June 17, 2015 annual survey for not meeting the following regulations: ACLF Rule 1200-08-25-.09(5) Building Standards and ACLF Rule 1200-08-25-.10(8)(a) Life

Safety. The facility believes the systems that are currently installed within the facility create compliance with ACLF regulations.

E. BOARD APPROVAL FOR THE FOLLOWING INTERPRETATIVE GUIDELINES

(1) Revised-Home Medical Equipment, 1200-08-29-.06(4) Delivery of Equipment

(2) Revised-RHA, ACLF & TBI-Emergency Call System.

F. Requesting a Policy Directive Regarding Ambulatory Surgical Treatment Centers Rules 1200-08-10-.06(13) Regarding Invasive Procedures. –Mary Ryan

G. PC Quality Measures for ASTCs and Hospitals Relative to Abortions.

H. Sovereign Immunity-Board Members Participation.

I. Fee Increase Approval. – Vincent Davis

J. Administrative Rule Compliance

8. APPROVAL OF MINUTES.

A. January 14, 2016 – Board Meeting

B. September 7, 2016 – Board Meeting

C. November 14, 2016-Assisted Care Living Facility Standing Committee Meeting

D. December 6, 2016-Facilities Construction Standing Committee Meeting

E. September 18, 2015 – Board Meeting

F. December 12, 2016 – Performance Improvement Issue and Education Standing Committee.

9. CONSIDERATION AND RATIFICATION OF LICENSURE APPLICATIONS (CHANGE OF OWNERSHIP (CHOWS) AND INITIALS).

A. CONSIDERATION.

(CHOWS)

1. Nursing Home
Life Care Center of Hixson, Hixson

B. RATIFICATION.

1. QUALIFYING APPLICATIONS

(INITIALS)

- (a) **Birthing Center Facility**
Baby+Company Knoxville 1, LLC, Knoxville
- (b) **Assisted Care Living Facility**
Freedom Senior Living, LLC, Sevierville
Northshore Senior Living, LLC, Knoxville
Prosperity Pointe, Knoxville
- (c) **End Stage Renal Disease Facility**
Interstate Drive Dialysis, Cookeville
Mt. Juliet Dialysis, Mt. Juliet
SRS-Nashville HH & LLC
- (d) **Home Health Agency**
Coram CVS/Specialty Infusion Services, Knoxville
- (e) **Home Medical Equipment Facility**
Comfort Medical, LLC, Nashville
Dynasplint Systems, Inc., Knoxville
Endomed, Inc., Knoxville
NoMad Medical, LLC, Memphis
Pain Therapy Solutions, LLC, Brentwood
Patient's Choice Medical, Morristown
Southeastern Medical, LLC, Collierville
US Med, LLC, Nashville
- (f) **Professional Support Services**
Compassionate Care Home Health, Knoxville
Mid South Supportive Living, Memphis

2. **(CHOWS)**

- (a) **Hospital Facility**
Scott County Community Hospital, Inc., Oneida
- (b) **Nursing Homes Facility**
Nashville Metro Care and Rehabilitation Center, Nashville
The Waters of Cheatham, Ashland City
The Waters of Gallatin, Gallatin
The Waters of Robertson, Springfield
The Waters of Shelbyville, Shelbyville
The Waters of Springfield, Springfield
The Waters of Union City, Union City
- (c) **Assisted Care Living Facility**
Bellwood Assisted Living, LLC, Lebanon

Trinity Hills of Knoxville, Knoxville

(d) Home Medical Equipment Facility

Active Medical & Mobility, Inc., Adamsville
Kinex Medical Company, LLC, Chattanooga
Medical Rentals, Inc., Martin

(e) Residential Home for the Aged

Autumn Ridge Manor, LLC, White Bluff

10. LICENSE STATUS UPDATES.

SOUTHERN HILLS SURGERY CENTER, NASHVILLE

Southern Hills Surgery Center has requested for their facility to come off of inactive status. This ASTC facility license had been granted an eighth extension of inactive status. This was based on Certificate of Need (CON) issues that arose after the CON was granted to Southern Hills Surgery Center on May 27, 2015 for relocation/replacement of the facility. Southern Hills Surgery Center was surveyed for licensure in October of 2016.

THE CENTER FOR ORAL AND FACIAL SURGERY, CHATTANOOGA

This ASTC facility requested for their facility to come off of inactive status on October 31, 2016. This ASTC facility's license was currently on inactive status granted on January 14, 2016 for one (1) year.

GOLDEN YEARS, CORDOVA

This Residential Home for the Aged facility has requested for their facility to come off of inactive status by February 3, 2017. As a result of a Board order effective January 16, 2016 this facility's license is on probation for 2 years. This facility was surveyed and approved to reopen.

***FACILITY CLOSURES**

See attachment.

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:

Beverly Park Place Health and Rehab, Knoxville
Life Care Center of East Ridge, East Ridge
Sevierville Health and Rehabilitation Center, Sevierville
Signature HealthCare of Greeneville, Greeneville
The Reserve at Spring Hill, Spring Hill

12. REGULATION(S).

A. BOARD APPROVAL FOR RULEMAKING HEARING.

- (1) Approval for Rule language for Hospital Rule 1200-08-01 regarding the legal role of a designated caregiver of a patient during and immediately following a hospital stay.
- (2) HME Rules regarding Mail Order.

B. PROPOSED RULE LANGUAGE

13. REPORTS.

A. EMS REPORT - Robert Seesholtz

B. OFFICE OF GENERAL COUNSEL REPORT – Caroline Tippens

14. ORDERS.

A. Consent Orders.

B. Orders.

15. OTHER BUSINESS.

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
February 8, 2017

The Board for Licensing Health Care Facilities Board meeting began February 8, 2017.

Dr. René Saunders, chairman, called the meeting to order. Ann Reed, Director of the Board for Licensing Health Care Facilities, welcomed new Board member, Gina Throneberry who is serving as the representative in the newly designated Board member appointment for ambulatory surgical treatment centers. A roll call of attendance was requested.

Dr. René Saunders, Chairman –here
Mr. Robert Breeden – here
Dr. Jennifer Gordon-Maloney – here
Mr. Joshua Crisp – here
Ms. Carissa Lynch – not here
Ms. Annette Marlar – here
Mr. John Marshall – here
Mr. David Rhodes – not here
Mr. Jim Shulman, Chairman Pro Tem – here
Mr. Bobby Wood – here
Mr. Roger Mynatt – not here
Dr. Sherry Robbins – here
Dr. Kenneth Robertson – here
Ms. Janet Williford – here
Mr. Thomas Gee – here
Mr. Paul Boyd – here
Ms. Gina Throneberry - here

A quorum was established.

Rulemaking Hearing:

Ms. Hughes-Toombs presented the following for consideration during the rulemaking hearing – definitions; admissions, discharges, and transfers; and optional hospital services for the hospital regulations; definitions for nursing home regulations; administration and records and reports for ambulatory surgical treatment center (ASTC) regulations; definitions for the home for the aged regulations; definitions; licensing requirements; services provided; admissions, discharges, and transfers; and life safety for assisted care living facility regulations; records and reports for the home medical equipment regulations; and admissions, discharges, and transfers for the professional support services regulations. The Board members introduced themselves as follows –

Dr. René Saunders
Annette Marlar
Dr. Kenneth Robertson
Thomas Gee
Paul Boyd
Bobby Wood

Dr. Jennifer Gordon-Maloney
Janet Williford
Robert Breeden
Jim Shulman
Dr. Sherry Robbins
Joshua Crisp
John Marshall
Roger Mynatt
Gina Throneberry

Ms. Hughes-Toombs read into the record the date and location of the rulemaking hearing. She also indicated the purpose of the rulemaking hearing to solicit comments on the proposed rules by the Board to amend rules 1200-08-01-.01, 1200-08-01-.05, 1200-08-01-.07, 1200-08-06-.01, 1200-08-11-.14, 1200-08-10-.04, 1200-08-10-.11, 1200-08-11-.01, 1200-08-25-.02, 1200-08-25-.03, 1200-08-25-.07, 1200-08-25-.08, 1200-08-25-.10, 1200-08-29-.11, and 1200-08-34-.05. The language presented is to add language in the hospital regulations relative to dieticians and expand practitioners to provide admission and on-call services, add language in the ASTC regulations relative to policy and procedures to address layout of patient care areas and personal items offered to patients and reporting of each patient case of communicable disease, deletion of patient abuse definition in the homes for the aged language, add language in the ACLF regulations relative to medication aide, licensed or certified health care professional, secured unit, administrator age requirement, maintenance of medication in the facility, medication disposal policy, interdisciplinary team makeup, and cooking appliance requirements, add language in the home medical equipment regulations relative to written orders, and add language to the professional support services regulations relative to discharge planning process. Ms. Hughes-Toombs asked Ms. Reed what additional notice was given to the affected individuals or groups. Ms. Reed stated electronic notification of the rulemaking hearing was provided. Ms. Hughes-Toombs read into the record the language of the proposed rule for all identified rule sets. Public comments was received from Chris Puri regarding 1200-08-25-.10(2)(i). He stated a change to the proposed language to indicate the facility does not have to provide a cooking appliance in addition to the other suggested language relative to facility policy and procedure. **Mr. Shulman made a motion to approve the presented rule language with the noted amendment of the ACLF regulations for the above listed facility types' set of regulations; seconded by Mr. Crisp. The motion was approved by a unanimous roll call vote.**

LICENSE STATUS REQUEST(S):

Ms. Reed presented the eleven (11) licensure status requests.

Middle Tennessee Center for Ambulatory Surgery and Treatment Center f/k/a Center for Surgical Specialties –

This ambulatory surgical treatment center sought to place its license on inactive status. The facility recently had a change of ownership and name change. Representative for the facility was Toni Canonico. Office of General Counsel (OGC), Kyonzté Hughes-Toombs, recommended to the Board to approve a one year inactive status. Ms. Hughes-Toombs further stated to the Board this operator's request is opposed by the former operator. She stated the Board does not need to involve itself in the other issues surrounding this facility as these issues are outside the purview of the Board. Ms. Hughes-Toombs did indicate that all parties relative to this facility are in agreement on a request for inactive status. **Mr. Shulman made a motion to approve the inactive status request until February 2018; seconded by Mr. Marshall and Mr. Crisp. The motion was approved.**

Belcourt Terrace Nursing Home –

This 49 bed nursing home sought an extension to the inactive status of the facility license. The facility ceased operation last year and inactive status was granted in January of 2016. Michaela Poizner, attorney, was the representative for the facility. **Mr. Shulman made a motion to approve the extension to the inactive status request until the February 2018 Board meeting; seconded by Mr. Marshall and Mr. Crisp. The motion was approved.**

Morgan Cares Senior Care Facility, LLC –

This 11 bed home for the aged facility sought to place its license on inactive status. The facility indicated there are no residents currently in the facility. The request for inactive status is due to illness and restructuring of the company. Michelle Fifer, Executive Director, was the representative for the facility, but did not appear. **Mr. Marshall made a motion to approve the inactive status request until the February 2018 Board meeting; seconded by Mr. Shulman. The motion was approved.**

Ridgemont Manor #1 –

This 12 bed ACLF sought to place its license on inactive status. The facility desires to offer alcohol and drug residential detoxification treatment at its current location. If the program is not successful within six months to a year, the facility would resume services as an ACLF. All residents have been transferred to other locations. Representative for the facility was Patricia Hughes. The Board asked if licensure as an alcohol and drug residential detoxification treatment facility had been obtained with Mental Health. Ms. Hughes indicated that it had been granted. **Mr. Shulman made a motion to approve the inactive status request until the October 2018 Board meeting; seconded by Mr. Gee. The motion was approved.**

Wayne Care Nursing Home –

This 46 bed nursing home sought a second extension to the inactive status of the facility license. The facility would like an additional period of 24 months in order to complete their CON project. Wayne Health and Rehabilitation Center was granted a 24 month extension of their CON to April 1, 2019. Representative for the facility was Chris Puri, attorney. **Mr. Shulman made a motion to approve the second extension to the inactive status request until the June 2019 Board meeting; seconded by Dr. Robbins. The motion was approved.**

Union City Surgery Center –

This ASTC sought to place its license on inactive status for a period of one year. The facility due to declining utilization has a proposal which is under review with anticipation of a definitive plan being finalized in the near future. Representative for the facility was Dan Elrod, attorney. Mr. Elrod stated to the Board a change of ownership is anticipated to occur for this facility. **Mr. Shulman made a motion to approve the inactive status request until the February 2018 Board meeting; seconded by Mr. Marshall. The motion was approved.**

Baptist Memorial-Memphis Skilled Nursing Facility –

This 35 bed nursing home sought a fourth extension to the inactive status of the facility license for an additional 12 months. The Baptist Memorial Hospital organization is actively working on a plan for the future use of the skilled nursing home beds. The plan is expected to be complete in the next several months. Representative for the facility was Dan Elrod, attorney. Mr. Elrod stated the definitive plan is to combine with Baptist Skilled Rehabilitation Unit which is the next request on the Board's agenda. This would go before the CON Board for a future CON application. **Mr. Shulman made a motion to**

approve the fourth extension to the inactive status request until the February 2018 Board meeting; seconded by Mr. Marshall. The motion was approved.

Baptist Skilled Rehabilitation Unit-Germantown –

This 18 bed nursing home sought a second extension to the inactive status of the facility license for an additional 12 months. The Baptist Memorial Hospital organization is actively working on a plan for the future use of the skilled nursing home beds. The plan is expected to be complete in the next several months. Representative for the facility was Dan Elrod, attorney. **Mr. Marshall made a motion to approve the second extension to the inactive status request until the February 2018 Board meeting; seconded by Dr. Robertson. The motion was approved.**

Scott County Community Hospital, Inc. f/k/a Pioneer Community Hospital of Scott County –

This 25 bed hospital presented to the Board the facility's desire to put the license back in an active status. The facility is updating plans for reopening under new ownership. Representatives for the facility were Tony Taylor, Administrator, Michael Goldberg, and John Beaty. Mr. Taylor indicated to the Board a desired reactivation date of April 1, 2017. He stated the new owners are bringing back some of the former management staff. He further stated the 855 for new ownership was submitted on February 7, 2017. Mr. Taylor stated updates of certain building structures are occurring, a new electronic record system is being instituted, and billing services are being brought back to the hospital. He stated all services the hospital was providing prior to its inactive status will be the services provided upon reactivation of the license. Dr. Saunders asked if the facility would be able to provide all services by the April 1st date. Mr. Taylor stated yes. She also asked where patients have been treated during the inactive period. Mr. Taylor stated in Knoxville and that it has been stressful on EMS providers in the area. Questions were asked about the new operator such as the location of the corporate offices and whether Rennova operated other facilities in Tennessee. Mr. Taylor stated Rennova is out of Florida and this hospital is the first facility to be operated in Tennessee. Mr. Marshall asked if there will be survey of the facility for life safety and health. Ms. Reed stated this would not be the usual practice given the limited inactive status period, but if the Board so desired Health Care Facilities' staff could do. She further stated the facility will have to undergo a certification survey in order to obtain a provider number to reenter the Medicare program. **Mr. Marshall made a motion to approve reactivation of the facility license on April 1, 2017 pending a full site survey for life safety and health without deficiencies rising to the level of detriment to the health, safety, and welfare of patients; seconded by Dr. Robbins. The motion was approved.**

Upper Cumberland Hospice and Palliative Care, LLC –

This 10 bed residential hospice facility sought to place its license on inactive status. The facility currently provides care at 570 State Street, Cookeville. The lease has expired for this location and the facility has ceased operations at this time. Hospice of Chattanooga is exploring ways in which residential hospice may be resumed in the future as the service is still needed in the community. Representative for the facility was Byron Trauger. **Mr. Shulman made a motion to approve the inactive status request until the February 2018 Board meeting; seconded by Mr. Marshall. The motion was approved.**

Upper Cumberland Hospice of Chattanooga –

This hospice facility sought to place its license on inactive status. This facility also provides services from the 570 State Street, Cookeville location. As with the above facility the lease has expired and operations have ceased. Hospice of Chattanooga is exploring ways in which hospice services may be resumed in the future as this too is a needed service in the community. Representative for the facility was Byron

Trauger. **Mr. Shulman made a motion to approve the inactive status request until the February 2018 Board meeting; seconded by Mr. Marshall. The motion was approved.**

Opposition was noted to both Upper Cumberland hospice providers request for inactive status of the licenses. Dan Elrod spoke in opposition on the behalf of Caris Hospice. Mr. Elrod stated there is a concern relative to the issuance of the CON for the hospice agency. He stated this is to be heard at the February 2017 Health Services and Development Agency (HSDA) meeting which may result in revocation of that CON.

WAIVER REQUEST(S):

Ms. Reed presented the following waiver requests for consideration by the Board.

Whitehaven Community Living Center, Memphis -

This licensed nursing home is seeking to waive nursing home regulation 1200-08-06-.04(1) for a Tennessee licensed nursing home administrator until a permanent replacement can be hired or receives his/her license in Tennessee. **Mr. Shulman made a motion to grant the waiver request until the October 2017 Board meeting; second by Mr. Marshall. The motion was approved.**

Kindred Nursing and Rehabilitation-Smith County, Carthage –

This licensed nursing home is seeking to waive nursing home regulation 1200-08-06-.04(1) for a Tennessee licensed nursing home administrator until a permanent replacement can be hired or receives his/her license in Tennessee **Mr. Shulman made a motion to grant the waiver request until the October 2017 Board meeting; second by Mr. Boyd. The motion was approved.**

Signature Healthcare at Methodist, Memphis –

This licensed nursing home is seeking to waive nursing home regulation 1200-08-06-.04(1) for a Tennessee licensed nursing home administrator until a permanent replacement can be hired or receives his/her license in Tennessee **Mr. Shulman made a motion to grant the waiver request until the October 2017 Board meeting; second by Mr. Boyd. The motion was approved.**

Cumberland Village Center, LaFollette –

This licensed nursing home is seeking to waive nursing home regulation 1200-08-06-.04(1) for a Tennessee licensed nursing home administrator until a permanent replacement can be hired or receives his/her license in Tennessee **Mr. Shulman made a motion to grant the waiver request until the October 2017 Board meeting; second by Mr. Marshall. The motion was approved.**

OTHER WAIVER REQUEST(S):

Jackson-Madison County General Hospital, Jackson –

This 635 bed hospital which includes 533 general acute care beds requested to increase their general acute care beds by 55 beds. The request is pursuant to the Tennessee Health Services and Development Agency statute T.C.A. § 68-11-1607(g). The rooms will be used for additional licensed beds previously used as inpatient rooms and currently used as observation rooms. Representative for the facility is Dan Elrod, attorney. **Mr. Shulman made a motion to approve the additional 55 general acute care beds; seconded by Mr. Marshall. The motion was approved.**

Laurestine Residential Care Home, Memphis –

This six bed home for the aged (RHA) sought to waive the definition of ambulatory for a specific resident housed at Laurestine Residential Care Home in order for that resident to continue to reside at the facility. Representative for the facility was Dee Lynn Colbert. Ms. Colbert presented to the Board a description of the resident the request is being made for and that the resident had been assessed by the interdisciplinary team (IDT) at the facility. She also indicated the resident's family member was present to address the Board as well. The resident's family member voiced complete confidence and satisfaction with the care provided at Laurestine. Ms. Marlar stated concern over the level of care needed by the resident not just the resident's ambulatory status. She wanted to know more regarding the resident's ability to toilet and participate in other activities of daily living (ADLs). Dr. Robbins made a statement about the use of hospice in long-term care (LTC) facilities indicating it was a good thing. She stated the scope of hospice should be for all levels of long-term care i.e. ACLF, nursing home. Dr. Robbins then asked at what point is hospice not appropriate in a RHA. Ms. Reed directed the Board members to the current interpretative guideline (IG) for RHA's regarding hospice services. She also gave the Board information on the history of this item with the Board. Ms. Reed stated that hospice services were determined by this Board to be allowable in a RHA, but the resident must remain ambulatory. Mr. Shulman stated this type of situation is heard about often and long-term care is going in this direction. He suggested looking at the current RHA rule language in addition to the current IG. This was also suggested by Caroline Tippens, Office of General Counsel (OGC). Mr. Shulman stated if a waiver is granted for the facility it should be resident specific. Mr. Crisp stated a temporary waiver should be granted until the June 2017 Board meeting. He further stated the facility should conduct another IDT review with an outside person participating to address this specific resident's status and level of care in the facility. The Board members discussed the outside person being the long-term care ombudsman. Ms. Colbert indicated the LTC ombudsman and a social worker had been to the facility and seen the resident in question. Mr. Crisp made a motion to grant a temporary waiver of the term ambulatory until the June 2017 Board meeting which would include an updated IDT with physician, hospice, family, and ombudsman; bring this IDT report to the ACLF Standing Committee and review rule language for ambulatory in the RHA regulations. Ms. Reed asked that the motion be made specific to the resident in question. **Mr. Crisp accepted this recommendation to the motion; seconded by Mr. Shulman. The motion was approved with two opposing – Mr. Breeden and Mr. Marshall.**

Parkwest Medical Center, Knoxville –

This 307 bed hospital which includes 291 general acute care beds and 16 adult geropsychiatric beds requested to increase their general acute care beds by 29 and their geropsychiatric beds by 1. The request was made pursuant to the Tennessee Health Services and Development Agency statute T.C.A. § 68-11-1607(g). The proposed beds will be located on Parkwest's existing campus. Representative for the facility was Dan Elrod, attorney. Mr. Elrod indicated the space will be a newly constructed area and that plans will be submitted to Plans Review of the Office of Health Care Facilities (OHCF). **Mr. Shulman made a motion to approve the additional 29 general acute care beds and the additional 1 geropsychiatric bed; seconded by Mr. Marshall. The motion was approved.**

DISCUSSION(S):

Tennessee Board for Licensing Health Care Facilities 2015 Performance Audit Report Update on Progress –

Vincent Davis, Director of Healthcare Facilities, provided an update to the 2015 Performance Audit which consisted of the following –

Follow-up Item 1 – Untimely Surveys was identified as partially resolved to the Board. The timeframe between LTC (Nursing Home) annual surveys is now an average of 12.5 months. Complaint survey timeliness is not being met in the two and 10 day timeline requirements. The current surveyor vacancy rate is 9%. The ASPEN Survey Tracking System (AST) was fully implemented across the state as of December 2016. Limitations were identified and OHCF is looking to CMS to assist with eliminating.

Follow-up Item 2 – Abuse registry item has been resolved. Abuse registry rules were submitted to the Attorney General’s Office on October 2015 and became effective December 27, 2016. In regards to registry placement, there were seven referrals to the Abuse Registry received in January. The Abuse Panel has addressed these referrals. Five are closed and due process has been initiated on the other two. January 2016 through December 2016 saw 174 placements on the Abuse Registry with 21 being from the OHCF.

Follow-up Item 3 – Board waiver policy has been resolved. A revised Board Policy #77 was presented to the Board in August 2016 which addressed the audit concern. The OHCF is currently following each step of the policy as it relates to waiver requests.

The finding of the 2015 Performance Audit concerning administration of medication in assisted care living facilities has been resolved.

Mr. Davis asked the Board members if there was anything more the OHCF could do to assist the Board. Ms. Marlar stated more data is needed to make better decisions. She wants as much historical information as possible and if available. Dr. Robbins complimented staff on receipt of material earlier and being better streamlined. Mr. Breeden asked about the use of contract surveyors once survey staff fully staffed. Mr. Davis stated contract surveyors would no longer be needed. He further stated the contract surveyors will be with OHCF for a while. Mr. Davis provided further information on contract details with contracted survey staff. He stated the previous contract surveyors were not under the purview of OHCF surveyors. A change was made this year with the new contract surveyors in that the contract surveyors are a part of OHCF survey team. Mr. Shulman asked where the Board was in the ‘wind down’ process. Is it still June 30, 2017? Mr. Davis stated yes the Board was still in ‘wind down’. OGC will discuss new bill in their report which is to extend the sunset of the Board.

Revisit Public Chapter 1043 – Development of Quality Measures and Standards Changes to Certificate of Need –

Mark Farber, Assistant Director Health Services and Development Agency (HSDA), made the presentation on this item. He recapped the research done by HSDA through stakeholder meetings held in January and February of this year. Mr. Farber stated the use of existing licensing and certification guidelines was heavily focused upon. He stated the use of volume standards was limited to certain areas of health care services such as open heart surgery. Mr. Farber stated it was recognized that standards change often. He informed the Board that it was recognized that pediatrics are looked at differently than adults. Mr. Farber also stated there would be consideration of rural versus urban facilities in determining the quality measures. He indicated HSDA continues to receive stakeholder comments and that emergency rules are to be drafted and presented to the HSDA Board on February 22, 2017. Ms. Tippens asked that Mr. Farber touch upon the statute requirement of reporting certificate of need (CON) holders to the Board for Licensing Health Care Facilities. Mr. Farber stated these facilities would be reported when found to not meet the developed quality standards and that disciplinary action would be requested. Mr. Marshall asked, if our surveyors will be education and work with HSDA to find quality issues upon survey. Mr. Farber stated this would be up to the Board for Licensing Health Care

Facilities. Mr. Davis stated this law change will not alter how surveyors do their work. Ms. Marlar asked about the relationship between this Board and HSDA's Board. She stated this Board only has authority over the license of a facility. Mr. Marshall asked if this was a duplication of effort. Mr. Farber stated he did not know what the final document would look like, but HSDA does not want to re-create the wheel. At the same time, HSDA must satisfy the statute. Mr. Breeden believed there are areas of confusion with some standards such as nursing home compare. He stated it does not always indicate poor quality of care and this should be considered as quality standards/emergency rules are developed. Mr. Farber stated further meetings will be needed to vet.

Revisit Board Policy #57 – General Hospital Discontinuation of OB Services –

Ms. Reed presented this item to the Board once again for direction on how to acknowledge Board Policy #57. She indicated administrative staff needed to know if the Board would direct by vote to make the policy obsolete. Ms. Tippens also relayed to the Board research done on the legislative history of this hospital rule for OB services. She stated it is very old and has had numerous changes in the arrangement of and language of the law which resulted in the current state of the hospital rules. **Mr. Marshall made a motion to make Board Policy #57 obsolete; seconded by Mr. Gee. The motion was approved.**

Revisit River Oaks Place-Loudon, Loudon –

Ms. Reed presented this was a 49 bed ACLF which came before the Board in September of 2016 related to a waiver request for the following two regulations, 1200-08-25-.09(5), Building Standards, and 1200-08-25-.10(8)(a), Life Safety. The issue was moved to the Facility Construction Standing Committee at the September 2016 Board meeting. The result of the Facility Construction Standing Committee was that the facility needed to reach compliance with the ACLF regulations by February 2017. As of this date the facility is not in compliance and this information was provided to the Board for further action/direction concerning the facility. Ms. Tippens then informed the Board that as of late February 7, 2017 there was an update to the facility's status. She stated the facility is actively working with OHCF to forestall any Board action. Ms. Tippens stated she; Chris Puri; Nelson Rodriguez, OHCF Life Safety Surveyor Supervisor; and Craig Parisher, Director of Facility Construction, were involved in these discussions. Dr. Robbins asked if the securing of a Plan of Correction (POC) for life safety deficiencies has been ongoing. Mr. Rodriguez stated yes. Mr. Rodriguez stated the plans from the facility were received last Thursday with a POC recently submitted. He further stated the facility has had since December 2016 to date of the Facility Construction Standing Committee to fix. Mr. Marshall asked further questions about the specific issue with the doors identified in the survey. Mr. Rodriguez stated these doors had been modified. Ms. Tippens stated the facility is substantial compliance. Board members began asking what substantial compliance means. Ms. Tippens then stated the facility is not in compliance. The consensus of the Board members specifically Ms. Marlar, Dr. Robbins, and Dr. Robertson was to have OGC to pursue legal and disciplinary action against the facility. Mr. Shulman asked what the Board would need to do to make this happen; would it be to request disciplinary action. Ms. Reed gave an example of what the Board could request i.e. Suspension of Admissions (SOA) and this effective until compliance reached. OGC stated a SOA cannot be done today. Facilities must be given proper notice and that the typical disciplinary action taken is a six month probation. OGC further stated the Board can approve the motion approved by the Facility Construction Standing Committee. Mr. Shulman recapped OGC's statement that six month probation is typical for other facility disciplinary actions that will be forthcoming. OGC stated the Board could make a recommendation and have disciplinary action in consent order form brought back to the Board at the June 2017 Board meeting. Mr. Shulman stated that if the facility reaches compliance before the June 2017 Board meeting the matter could drop if voted upon by the Board. **Mr. Shulman made a motion to approved the Facility Construction Standing**

Committee's recommendation on the withdrawal of the waiver request and facility to be in compliance by February 2017; OGC to institute disciplinary action to be brought back to the Board at the June 2017 meeting to include the facility's license to be on probation for six months with one life safety survey having been conducted during this period; include that after six months if the facility fails to meet the requirements a SOA will occur; seconded by Mr. Marshall. Mr. Davis stated a limit of the number of revisits to the facility should be determined. He informed the Board a lot of energy and resources are expended in this process. Mr. Rodriguez stated one revisit is all that should be made. **Mr. Shulman amended the motion to have River Oaks Place-Loudon's owner to appear at the June 2017 Board meeting to explain why two years was needed to address the deficiencies.** He asked what occurs if the owner does not appear. Ms. Tippens stated that if notice of charges are filed the owner could be subpoenaed and this must be issued by the Administrative Procedures Division of the Secretary of State Office. **The motion was approved.**

Dr. Saunders stated the Board would not have known about this outstanding POC/deficiency issues and wanted to know is this usual. OGC indicated facilities only get so many changes to address POCs. Ms. Reed explained the current procedure for the OHCF relative to a facility's failure to address the statement of deficiencies (SOD) with a POC i.e. a facility has approximately two attempts to provide a POC that is acceptable and to be found in compliance upon revisit to the facility. Mr. Davis stated the surveyors will make Ms. Reed aware of those facilities falling short on the above and this can be provided to the Board.

Board Approval of Interpretative Guidelines –

Ms. Reed presented the following interpretative guidelines for approval by the Board –

Delivery of Equipment - Home Medical Equipment rule 1200-08-29-.06(4) revision. **Mr. Marshall made a motion to approve; seconded by Mr. Shulman. The motion was approved.**

Emergency Call System – ACLF, RHA, and Traumatic Brain Injury (TBI) Residential Home revision. **Mr. Marshall made a motion to approve; seconded by Mr. Shulman. The motion was approved.**

Request of a Policy Directive Regarding Ambulatory Surgical Treatment Center (ASTC) Rule 1200-08-10-.06(13) Invasive Procedures –

Mary Ryan with Medtronic presented to the Board for Licensing Health Care Facilities concerning the intent of the above referenced ASTC rule. She believes the rule is specific to pain management and not other procedure types that may involve the spine. Ms. Ryan informed the Board that Medtronic provides devices that produce sacral neuromodulation for the purpose of long-term control of bladder and bowel symptoms. She further stated 1200 of these devices are implanted in Tennessee and of that 30 to 40% are done in ASTCs. Ms. Ryan stated these devices are implanted by an urologist or urogynecologist. The issue with the ASTC rule above was brought to Medtronic by an ASTC that would not allow an urologist or urogynecologist to implant the device using this facility based upon the above rule. Again, Ms. Ryan feels the rule is specific to procedures and therapies that cure or relieve acute or chronic pain. OGC stated a strict interpretation of the rule would not allow the urologist/urogynecologist to perform this procedure. Suggestions offered by legal counsel to the Board included removing the rule, altering the rule, or develop an interpretative guideline (IG). Mr. Marshall asked if the facility's bylaws and credentialing process would address the issue. Ms. Tippens recommended adding urologist and urogynecologist to the rule or developed IG. Dr. Robertson stated the IG should state the rule currently applies to only pain management services. Ms. Marlar asked if American Medical Association (AMA) has a position. Ms. Ryan was unaware of a position. Dr. Saunders pointed out this service could potentially be offered in an office based surgery suite (OBS). The rules for OBS do not preclude this practice. She also asked where the other 60% of procedures were being

performed. Ms. Ryan stated in hospital outpatient settings. Yarnell Beatty, Tennessee Medical Association (TMA), interjected via phone the purpose of the language was to address interventional pain management. Ms. Hughes-Toombs asked Mr. Beatty the reason behind this rule addition to the ASTC rules. **Dr. Robertson made a motion for an IG for 1200-08-10-.06(13) stating this rule applies only to interventional pain management services and not intended to apply to other ASTC procedures; seconded by Dr. Robbins. The motion was approved.** Mr. Shulman also recommended a look at the rule for rule change and to move this to the PI Standing Committee for further discussion.

PC 1003 Quality Measure for ASTC and Hospitals Relative to Abortions –

Ms. Tippens presented on this item. She provided to the Board an IG to address the requirements of PC 1003. Mr. Marshall stated the IG should include preservation of umbilical cord via cryo-cell. Dr. Saunders also wanted included maternal placenta in the list. Dr. Robbins stated preservation and disposal of products of conception should be included in the IG list. **Mr. Shulman made a motion to accept the presented IG amended; seconded by Dr. Robbins. Dr. Robertson made an amendment to the presented language to add preservation and/or disposal products of conception instead of reading disposal of fetal tissue which would capture both items suggested by Dr. Saunders, Dr. Robertson, and Mr. Marshall. The motion was approved with the amendment.** It was stated that item #13 on the IG list be deleted and insert the recommended language above.

Sovereign Immunity – Board Members Participation –

Ms. Tippens provided the Board members with a list of bullet points relative to sovereign immunity and conflict of interest. She read over the identified items on the provided information sheet. Some of the bulleted items included Board members should not engage in conduct with impairs or appears to impair their ability to make an unbiased decision; Board members are protected from suit in an individual capacity for acts performed in the course of official Board business; etc.

Fee Increase Approval –

Mr. Davis presented this item to the Board. He outlined for the Board members the number of complaints, self-reported incidents, incidents converted to complaints, total number of complaints, and total number of substantiated complaints over the period of 2011 through 2016. There has been a steady increase overall in these numbers. Mr. Davis focused on the conversion of incidents to complaints and the impact this has had on complaint intake and survey. He also focused on the large discrepancy in the total complaint numbers and the total substantiated complaint numbers. Mr. Davis stated there has been a decline in the number of substantiated complaints over the last 5 years. Based upon this data, Mr. Davis presented a fee increase structure for the Board to consider for approval. The overall fee increase is a margin of 30% which results in approximately \$90 through \$660 increase per facility type. Dr. Robbins sought clarification between an incident and complaint. Mr. Davis stated that if a self-reported incident by the facility was regarding abuse, neglect, or misappropriation of funds the incident was moved to a complaint status. Incidents are not investigated until complaint status reached. Mr. Davis stated more surveyors are needed to address complaints. He is indicated a need of six additional surveyors. The fee increase would fund this addition of staff. Mr. Davis indicated some of the six surveyors would be in the field surveying and others would be in each of the regional offices working with the complaints. Mr. Marshall asked what percentage of the work will be desk review. Mr. Davis stated he didn't have a sense of that right now. **Mr. Shulman made a motion to accept the fee increase as presented; seconded by Dr. Robertson. The motion was approved.**

Ms. Ann Reed left the board meeting and Mr. Vincent Davis presided in her absence.

Administrative Rule Compliance –

Ms. Tippens presented to the Board a situation involving an assisted care living facility provider who is a provider in the home and community-based (HCBS) program administered by TennCare. This provider was approved by Amerigroup, a TennCare Choices provider, but was rejected by Blue Cross another TennCare Choices provider because this ACLF provider had an industrial size kitchen and a secure unit. Based on the HCBS program, an assisted care living facility that is also a HCBS provider will allow residents to have access to the kitchen area at any time and to walk freely through the facility. The HCBS requirement contradicts the assisted care living facility rules involving secure units. TennCare has requested the Board for Licensing Health Care Facilities to change the assisted care living rules to be compliant with the HCBS regulations. Pursuant to the federal HCBS requirements there are several rights afforded to Medicare residents living in privately owned or controlled HCBS settings. This includes access to units with an entrance door capable of being locked by the individual with only appropriate staff having keys to the door. Such an allowance is a concern for those residents that have dementia and are an elopement risk. According to ACLF rule 1200-08-25-.08(9), secure units in ACLFs are allowed to be restricted for access and this is in contradiction to the federal requirements. Several ASTC regulations would also be challenged such as ACLF rule 1200-08-25-.14(1)(1) regarding day rooms, dining and other groups living in common area and Adult Care Home-Level 2 rule 1200-08-36-.15(1) regarding resident's rights. Ms. Tippens informed the Board even on an emergency basis the Board for Licensing Health Care Facilities does not promulgate rules and this consists of drastic changes to the ACLF rules which may impact many providers. Mr. Davis stated based on new federal regulations a number of ACLFs are Medicare/Medicaid beneficiaries and in fact this is going to be a difficult task for the state in terms of its licensing regulations. Ms. Tippens suggested to carve out specifically for those ACLF providers that participate in the HCBS program the applicable federal rules versus applying to those providers that do not participate in the HCBS program. There is also the possibility do address on an individualized waiver basis waiving the rules for ACLFs participating in the HCBS program. Mr. Puri stated he was unaware of the history but felt the rule deals with Medicare/Medicaid for any provider to be a home community-based service provider. Mr. Puri did agree with Ms. Tippens it is a choice of the provider. Dr. Saunders asked how many facilities will be affected by this change. Ms. Tippens stated we need to consult TennCare in order to get that information. Dr. Saunders felt the rulemaking process might be a bit cumbersome for something that is not a pervasive practice. Ms. Tippens stated this needs to be sent to the ACLF Standing Committee meeting and to ask TennCare to appear providing clarity and data points. **Mr. Crisp made a motion to move this to the ACLF Standing Committee for further discussion with TennCare to present; seconded by Dr. Robbins. The motion was approved.** Ms. Tippens further stated OGC would get the number of facilities participating in the HCBS program from TennCare. Ms. Tippens then directed that the Plans Review Section of OHCF and ACLF associations to attend the standing committee as well.

APPROVAL OF MINUTE(S):

Ms. Reed presented the following minutes for approval by the full Board –

January 14, 2016 – Board meeting – Dr. Robbins stated that on page 10 of the last large paragraph with language relative to CPAP and BiPap was in the context of the limitation of the Trilogy machine.

September 7, 2016 – Board meeting

November 14, 2016 – Assisted Care Living Facility Standing Committee meeting

December 6, 2016 – Facility Construction Standing Committee meeting

September 18, 2015 – Board meeting

December 12, 2016 – Performance Improvement Issue and Education Standing Committee meeting

Dr. Robertson and Mr. Gee made a motion to accept all of the above standing committee meeting minutes with above referenced tweak to the January 14, 2016 Board meeting minutes; seconded by Mr. Shulman. The motion was approved.

CONSIDERATION AND RATIFICATION OF LICENSURE APPLICATIONS (CHANGE OF OWNERSHIP (CHOWS) AND INITIALS):

Mr. Davis presented the CHOW and initial licensure applications received by the Office of Health Care Facilities.

The following initial applications were processed by the Board's administrative staff with concern – Life Care Center of Hixson, Hixson – Nursing Home – Mr. Breeden recused himself from this vote. **Mr. Mynatt made a motion to approve; seconded by Mr. Marshall. The motion was approved.**

The following initial applications were processed by the Board's administrative staff without concern – Baby+Company Knoxville 1, LLC, Knoxville – Birthing Center; Freedom Senior Living, LLC, Sevierville – Assisted Care Living Facility (ACLF); Northshore Senior Living, LLC, Knoxville – ACLF; Prosperity Pointe, Knoxville – ACLF; Interstate Drive Dialysis, Cookeville – End Stage Renal Dialysis Clinic (ESRD); Mt. Juliet Dialysis, Mt. Juliet – ESRD; SRS-Nashville HH & LLC, Nashville – ESRD; Coram CVA/Specialty Infusion Services, Knoxville – Home Health Agency; Comfort Medical, LLC, Nashville – Home Medical Equipment (HME); Dynasplint Systems, Inc., Knoxville – HME; Endomed, Inc., Knoxville – HME; NoMad Medical, LLC, Memphis – HME; Pain Therapy Solutions, LLC, Brentwood – HME; Patient's Choice Medical, Morristown – HME; Southeastern Medical, LLC, Collierville – HME; US Med, LLC, Nashville – HME; Compassionate Care Home Health, Knoxville – Professional Support Services Agency (PSS); and Mid South Supportive Living, Memphis - PSS. **Mr. Boyd made a motion to approve; seconded by Dr. Robbins. The motion was approved.**

The following CHOW applications were presented to the Board for approval without staff concern – Scott County Community Hospital, Inc., Oneida – Hospital; Nashville Metro Care and Rehabilitation Center, Nashville – Nursing Home; The Waters of Cheatham, Ashland City – Nursing Home; The Waters of Gallatin, Gallatin – Nursing Home; The Waters of Robertson, Springfield – Nursing Home; The Waters of Shelbyville, Shelbyville – Nursing Home; The Waters of Springfield, Springfield – Nursing Home; The Waters of Union City, Union City – Nursing Home; Bellwood Assisted Living, LLC, Lebanon – ACLF; Trinity Hills of Knoxville, Knoxville – ACLF; Active Medical & Mobility, Inc., Adamsville – HME; Kinex Medical Company, LLC, Chattanooga – HME; Medical Rentals, Inc., Martin – HME; and Autumn Ridge Manor, LLC, White Bluff – Home for the Aged (RHA). **Mr. Marshall made a motion to approve; seconded by Mr. Gee. The motion was approved.**

LICENSURE STATUS UPDATE(S):

Mr. Davis presented licensure status updates on the following three (3) facilities – Southern Hills Surgery Center, Nashville; The Center for Oral and Facial Surgery, Chattanooga; and Golden Years, Cordova. Southern Hills Surgery Center has requested for their facility license to come off of inactive status. This ASTC facility license had been granted an eighth extension of inactive status. This was based on Certificate of Need (CON) issues that arose after the CON was granted to Southern Hills Surgery Center on May 27, 2015 for replacement/relocation of the facility. Southern Hills Surgery Center was surveyed for licensure in October of 2016. The Center for Oral and Facial Surgery requested for their facility license to come off inactive status on October 31, 2016. This ASTC facility's license was granted an inactive status on January 14, 2016 for one year. Golden Years a licensed home for the aged facility

requested for their facility license to come off of inactive status effective February 3, 2017. As a result of a Board order effective January 16, 2016 this facility's license was placed on probation for two years. The facility was surveyed and approved to reopen. Per guidance of Ms. Tippens the above licensure status updates were determined to require ratification by the Board. **Mr. Marshall made a motion to approve; seconded by Mr. Gee. The motion was approved.**

FACILITY CLOSURES:

A listing of all facility closures during the months since the September 2016 Board meeting was provided to the Board. No discussion was held.

BOARD POLICY CONSENTS:

Mr. Davis presented the Board Policy Consent requests. The requests were for Board Policy #32, Nursing Homes and Residential Homes for the Aged to provide outpatient therapy services.

Board Policy #32 requests –

Beverly Park Place Health and Rehab, Knoxville

Sevierville Health and Rehabilitation Center, Sevierville

Signature Healthcare of Greeneville, Greeneville

The Reserve at Spring Hill, Spring Hill

Dr. Robertson made a motion to approve the request for Board Policy #32 waiver to be issued to the above facilities; seconded by Mr. Breeden. The motion was approved. Mr. Breeden recused himself from the vote on the following facility for Board Policy #32.

Life Care Center of East Ridge, East Ridge

Mr. Mynatt made a motion to approve the request for Board Policy #32 wavier to be issued to the above facility; seconded by Dr. Robbins. The motion was approved. Mr. Breeden returned to the meeting.

REGULATION(S):

Board Approval for Rulemaking Hearing –

Ms. Tippens presented to the Board newly drafted rule language for hospital rules 1200-08-01 regarding the legal role of a designated caregiver of a patient during and immediately following a hospital stay. Ms. Tippens stated the proposed rule language with discussions from several organizations and the PI Standing Committee resulted with updated language. The language presented included the definition of a caregiver with insertion of the words "by a patient"; as an "unpaid"; and delete the words "by a patient" who provides aftercare assistance; and adding the words "in a private residence". It also included the clarification of the hospital definition regarding documentation of the designated caregiver in the patient medical record. Mr. Shulman questioned if an interpretative guideline was needed and had a facility been cited regarding this? Shelly Crane, AARP informed the full Board it is part of the AARP's National Policy to implement the Care Act and it hasn't been noted to be a problem previously. Ms. Tippens informed the full Board it will probably be 2018 by the time of the rulemaking process since OGC will open up all codes section, do a fee increase and sort of lump that in the hospital code section. Dr. Saunders asked Ms. Crane if she wanted an interpretative guideline until the rules are finalized: Ms. Tippens explained to Ms. Crane what the interpretative guideline was and assure her the language on the interpretative guideline will read the same as the language presented for rulemaking. Ms. Tippens

acknowledged that Ms. Crane only requested an initial rule change not an interpretative guideline. **Mr. Shulman made a motion to approve the language revisions and proceed with rulemaking; seconded by Mr. Marshall.** Ms. Marlar had concerns about why AARP as one organization is asking the Board to make a rule based on an AARP request? She questioned if you have a health care agent and they are out-of-town; this is the person the resident has given permission who will make all of my health care decisions. Ms. Tippens explained there is a legal difference between a caregiver, a power of health care attorney, and a conservator. Ms. Marlar felt the patient is going to be transferred from an assisted care living to the hospital and the hospital is going to transfer them somewhere. Ms. Crane explained the caregiver does not transfer it only applies to private resident transfer's not just skilled nursing facilities. Ms. Marlar felt assisted care living is their home and this caregiver they have appointed can make any decision. Ms. Crane assured Ms. Marlar that AARP and the American Hospice Association came up with this and every state has adopted more or less the same language; it is universal. Ms. Tippens assured Ms. Marlar there will be public comments from a hospital association or whomever at the rulemaking hearing. Ms. Marlar and Dr. Robbins both felt this is also an HIPPA issue and they both had reservation about this intent. After further discussion Dr. Saunders reiterated that a motion and a second to proceed to rulemaking on the subject of a designated caregiver was made and if there is no further discussion the full Board needed to vote. Ms. Tippens suggested a roll call vote instead of a voice vote. **Mr. Davis proceeded to roll call vote: Paul Boyd – No; Mr. Breeden – No; Mr. Crisp – No; Mr. Gee – Yes; Dr. Gordon-Maloney-Yes, Ms. Marlar – No; Mr. Marshall – Yes; Mr. Mynatt – No; Dr. Robbins – No; Dr. Robertson – Yes; Dr. Saunders – Abstain; Mr. Shulman – Yes; Ms. Throneberry – Yes; Ms. Williford – Yes; and Mr. Wood – Yes. The final vote tally were 8 – Yes, 6 – No, and 1 – Abstain. The motion was approved.**

The second drafted rule language presented to the Board was Home Medical Equipment (HME) regulations pertaining to mail order. Ms. Tippens stated the proposed rule language was a result of the work of the PI Standing Committee. The language presented contained a definition for mail order companies and insertion of exception language for mail order companies in the Records and Reports section of the HME regulations. Ken Reel, Prism, who was connected to the meeting via phone suggested the rule language change to include the wording 'except for mail order' on page 14 at rule 1200-08-29-.06(4)(b). He stated surveyors cite the mail order company HME providers under this rule. Ms. Reed further stated this is the 'doing' rule language and the rule language on page 18 that has been proposed is the documentation 'paperwork'. **Mr. Marshall made a motion to approve the HME rule language revision regarding mail order with stated amendment; seconded by Ms. Williford. The motion was approved.**

REPORTS:

EMS -

Robert Seesholtz, EMS Trauma System Manager, presented the EMS report. He addressed the board with a couple items: minutes of the July 28th Trauma Care Advisory Council meeting, Sumner Regional Medical Center that was visited on August 10th and Horizon Medical Center of August 11th of 2016 that are both Level III provisional review. Deficiencies related to ATS certification and surgical direction of ICU care was noted during Sumner Regional's review. All documentation satisfied all deficiencies and as a result the site team granted Level III provisional designation for (1) year. No deficiencies were cited at Horizon Medical Center site review and as a result the site team also granted Level III provisional designation for (1) year. Lastly, Blount Memorial underwent their (3) year verification site visit on October 3rd, 2016 and numerous improvements were identified during the visit, however, deficiencies

related to performance improvement and the surgical direction of ICU care were found. A Corrective Action Plan was received and deemed appropriate and it is the recommendation of the site review team that Blount Memorial Trauma Center designation which is Level III be placed on (1) year provisional status until a (1) year focus site review will occur to ensure compliance with the identified deficiencies. Star Regional Medical Center was to undergo their (3) year verification of visit as a Level III designated trauma center on October 4th of 2016. On September 9th, however, notification was sent the office from Mark Nichols, Star Regional Medical Center's CEO cancelling the site visit and indicating that they will no longer seek trauma center designation in the future which is the first loss to the trauma center in the state in 15-20 years. Regional Medical Center of Memphis also underwent a focus site visit on January 27th of 2016 related to deficiencies that were identified on November, 6th, 2015. Site team determined that all deficiencies has been satisfied and recommends to the Board that provisional status be removed and again granted full designation as a Level I Trauma Center in the State of Tennessee. Finally, he mentioned the Trauma Care Report is completed which gives a snapshot of the care of critical injured patients being taken care by state designated Level I's, II's, III's in comprehensive regional pediatric centers.

OGC -

Ms. Tippens presented the OGC report. She indicated there are sixteen open cases in OGC with nine consent orders being presented during today's meeting. Ms. Tippens' report included a legislative update regarding Senate Bill 242 by Senator Mike Bell who is the Chair of Government Operations. This bill essentially extends the sunset date of the Board for Licensing Health Care Facilities until June 30, 2017. She explained that essentially this means that the Board for Licensing Health Care Facilities will remain in wind down status for another year and if the bill doesn't pass the Board would terminate. Dr. Saunders inquired the reason for this? Ms. Tippens stated she could not speak the reason but the legislation does mirror others boards and not just singling out health care facilities. Mr. Davis explained it may be based on the number of years health care facilities have not met compliance for survey timeliness. Mr. Boyd inquired will there be another hearing date and do you expect members of the Board to speak at the hearing? Mr. Davis stated there will be an opportunity to do this when health care facilities are asked to appear before the Joint Operation Committee. The Joint Operation Committee does request that at least one member of the board attend. Dr. Robbins asked to please give plenty of notice so members could schedule to attend. Ms. Tippens assured the members if anything directly impacts the board we would have to have a special called meeting because the legislative session generally ends around April-May and the board does not meet again until June.

Ms. Tippens gave an update that the advance directive rules have been sent to the Attorney General's Office and returned to their office yesterday so the rulemaking hearing rules is going to be filed with the Secretary of State's Office today so these rules will be final within 90 days after they have been posted on the Secretary of State's website. Ms. Tippens also informed the board that the health care facilities combined rules that was read into record today at the board meeting will go to the Attorney General's Office for legal review. The health care facilities central services abortion, administrative testing rules, trauma centers, definitions and requirements are currently in the internal review. Once these rules leave internal review OGC will have a rulemaking hearing on these rules. Ms. Tippens stated she could not give a timeline for the exact date.

ORDER(S):

Consent Orders -

The following consent orders were presented by Ms. Tippens.

Alexian Village – Assisted Care Living Facility (ACLF) – Survey conducted resulting in a \$500 Civil Monetary Penalty (CMP). **Mr. Boyd made a motion to approve; seconded by Dr. Robertson. The motion was approved.**

Carrick Glen – ACLF – Survey conducted resulting in a \$2,000 CMP. **Mr. Marshall made a motion to approve; seconded by Ms. Williford. The motion was approved.**

Autumn Hills – ACLF – Survey conducted resulting in a \$2,500 CMP. **Mr. Marshall made a motion to approve; seconded by Ms. Williford and Mr. Mynatt. The motion was approved.**

The Terrace Mountain Creek – ACLF – Survey conducted resulting in a \$1,000 CMP. **Dr. Robertson made a motion to approve; seconded by Dr. Robbins. The motion was approved.**

Adams Place – ACLF – Survey conducted resulting in a \$1,000. **Mr. Marshall made a motion to approve; seconded by Mr. Mynatt. The motion was approved.**

Trinity Hills – ACLF – Survey conducted resulting in a \$500 CMP. **Mr. Marshall made a motion to approve; seconded by Mr. Boyd. The motion was approved.**

Summit View – ACLF – Survey conducted resulting in a \$750 CMP. **Mr. Marshall made a motion to approve; seconded by Dr. Robertson. The motion was approved.**

UGHS Senior Living of Knoxville – ACLF – Survey conducting resulting in a \$500.00 CMP. **Mr. Marshall made a motion to approve; seconded by Mr. Boyd.**

Orders –

The following agreed order was presented by Ms. Tippens.

Prestige Care Home – Home for the Aged (RHA) – The facility voluntarily surrendered its license which has the same legal effect as a revocation of the license. Mr. Marshall and Ms. Marlar asked if this order was being shared with Adult Protective Services (APS). Ms. Tippens informed the board that Adult Protective Services as well as the state long-term ombudsman are aware of this facility. Dr. Saunders asked are we presumable that the ombudsman is handling any issues that may arise for the safety of the residents in this facility. Ms. Tippens made acknowledgement that the Board is very concerned about the welfare of the residents and offered to contact Adult Protective Services and have them conduct a welfare check. Ms. Tippens explained that the Shelby County District Attorney's Office have coordinated a response team for elder abuse and went to the facility but didn't see any reason for residents to be removed from the facility. **Dr. Robbins made a motion to present to the Adult Protective Services the idea for a welfare check of the facility; seconded by Mr. Breeden.** Ms. Tippens stated she will be happy to contact Adult Protective Services. Ms. Tippens reminded the Board to decide whether they want to accept or reject the consent order. **Mr. Marshall made a motion to accept the consent order; seconded by Dr. Robbins. The motion was approved.**

Terrace at Mountain Creek – Assisted Care Living Facility (ACLF) – A complaint survey was conducted on the facility on or about January 6, 2017. During the survey deficiencies were cited and as a result they agreed upon disciplined (2) civil monetary penalties in the amount of \$500.00 each for a total assessment of \$1,000.00. **Dr. Robertson made a motion to approve the consent order. Dr. Robbins seconded. The motion was approved.**

OTHER BUSINESS:

Initials and CHOWS Application – Question #6 – Disciplinary – Dr. Robbins express concern about a facility and the malpractice/lawsuits that might have occurred. Dr. Robbins wanted to entertain a motion that the Board establishes a certain number of legal actions that would trigger for the facility having to appear before this Board to answer questions or to get information about actual outcomes of lawsuits. Dr. Robbins stressed to the Board there have been a tremendous amount of facilities and she felt where eventually the Board need to know before the facilities can further their operations in the state of Tennessee. Ms. Tippens stated it is statutory. She explained that pursuant to T.C.A. §68-11-206 provision G(2)(a) which requires upon applying for an application for licensure applicants they must provide a list of any judgments past or pending and litigations against the applicant. She stated this language is in the rule. Ms. Marlar expressed that the application could be the catch all but you can tell year after year with the performance of the applicant the application could tell that. Dr. Saunders inquired what would you change the application to? Ms. Marlar was not sure but she felt it could have more data. Ms. Tippens explained the ACLF facility according to ACLF rule 1200-08-25-.03, the applicant should submit to the Board for Licensing Health Care Facilities a complete application on a form approved by the Board, a copy of any and all documents demonstrating the legal status of the business organization that owns the ACLF; that the applicant is a cooperation or a limited license company; must submit a certificate of good standing; and any other document or information. Dr. Saunders asked are there anything in the rules under eligibility for licensure that states the Board may request any applicant to come before the Board upon the Board's request? Ms. Tippens assure the Board they can require any applicant to appear before the Board. Mr. Puri wanted to make a point that the process in order to get to the Board for ratification there is an actual closing on the sale of the facility. He expressed appreciation of the concern but if a transaction is imperiled by this Board's ratification it could become a difficult legal problem. Dr. Robbins feels the dilemma of allowing people to distribute medications without a medical license and the Board allow someone who has committed several infractions that cost someone their life or have judgements against them are getting away with it. Ms. Tippens iterated that any new provider does have to report any litigation and if the Board would like to see documentation this would be the appropriate time. Dr. Robbins asked if there was a way to establish a threshold where a new applicant could report to the Board Mrs. Tippens stated that the rules were vague there of any documentation and that it was statutory. If there is a willingness of the Board to change to the form, the form will have to go move it through the forms committee. Dr. Saunders asked if the board should put this item on the agenda for the next board meeting. Mrs. Tippens suggested that the Board will need to put this on a sunshine notice and on the next Board agenda because of the change of the form that is implacable to all licensees and have public discussion. **Dr. Robbins made a motion to put the Initials and Chows Application-question #6-disciplinary on the agenda for discussion at the next board meeting. Mr. Mynatt seconded. The motion was approved.**

OTHER DISCUSSION-CEDAR HILLS SENIOR LIVING:

Mrs. Tippens briefly discussed that a resident wants to be admitted to an ACLF but the resident has a long term feeding tube. He had previously been cared for in his own home by caregivers or skilled nursing at that time they were doing intravenous feeding to the peg tube. Rules go against an ACLF to admit a resident with a peg tube unless the resident has been residing long term in an ACLF and their condition declines and resulting with a peg tube. There has been discussion to issue a waiver requirement to allow this particular resident to be cared for in an ACLF. The family had stated the facility was experienced enough to provide the care without any additional scaled nursing care. Mrs. Tippens recalled the subcommittee they requested that he have an Interdisciplinary Team Evaluation and that

the results of the evaluation were to be released to the Board and bases off the information that she had received his recent condition has deteriorates as such that he is no longer going to be able to reside in an ACLF and is that that he will be transferred to a skilled nursing facility. The Board would not have access to whether or not he had an interdisciplinary report which is why they requested it but such essentially the issue that was previously before the Board is moot and that is no need for Board action on the issue. **Dr. Robertson moved to adjourn. Dr. Saunders & Mr. Mynatt seconded.**

Dr. Saunders ended the meeting.