



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:** January 14, 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 Board Meeting

**(Call-in Number: 1-888-757-2790 passcode: 457462#)**

**Date & Time of Meetings:** January 14, 2016 – 9:30 a.m. C.S.T.  
January 15, 2016 – 9:00 a.m. C.S.T.

**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:**

**January 14, 2016**

<https://web.nowuseeit.tn.gov/Mediasite/Play/dba9e31245094ef4bc8e0dc0a69bc7701d>

**January 15, 2016**

<https://web.nowuseeit.tn.gov/Mediasite/Play/2c3b86afc4774fc2b5c7d1bec433e4961d>

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**

**January 14, 2016 – 9:30 A.M.**

**January 15, 2016 – 9:00 A.M.**

**IRIS CONFERENCE ROOM, FIRST FLOOR**

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

- 
- 1. NOMINATION FOR NEW CHAIR PRO TEM TO REPLACE ROBERT GORDON.**
  - 2. WELCOME NEW BOARD MEMBERS:** Paul Boyd replacing Betty Hodge as the Consumer representative and Thomas Gee replacing Robert Gordon as the Hospital Administrator.
  - 3. CALL THE MEETING TO ORDER AND ESTABLISH A QUORUM.**
  - 4. CONTESTED CASE HEARING(S).**
  - 5. RULEMAKING HEARING(S) –** Notice of Rulemaking Hearing can be viewed online at: <http://tnsos.org/rules/RulemakingHearings.php>.
    - A.** 1200-08-01 Standards for Hospitals  
1200-08-01-.06 Basic Hospital Functions
  
    - 1200-08-02 Standards for Prescribed Child Care Centers  
1200-08-02-06 Basic Services

- 1200-08-06 Standards for Nursing Homes  
1200-08-06-.06 Basic Services
- 1200-08-10 Standards for Ambulatory Surgical Treatment Centers  
1200-08-10-.06 Basic Services
- 1200-08-11 Standards for Homes for the Aged  
1200-08-11-.05 Admissions, Discharges and Transfers
- 1200-08-15 Standards for Residential Hospices  
1200-08-15-.06 Basic Hospice Functions
- 1200-08-24 Standards for Birthing Centers  
1200-08-24-.06 Basic Birthing Center Functions
- 1200-08-25 Standards for Assisted-Care Living Facilities  
1200-08-25-.06 Administration
- 1200-08-26 Standards for Home Care Organizations Providing Home Health  
Services  
1200-08-26-.06 Basic Agency Functions
- 1200-08-27 Standards for Home Care Organizations Providing Hospice  
Services  
1200-08-27-.06 Basic Agency Functions
- 1200-08-28 Standards for HIV Supportive Living Centers  
1200-08-28-.06 Basic HIV Supportive Living Facility Functions
- 1200-08-29 Standards for Home Care Organizations Providing Home Medical  
Equipment  
1200-08-29-.06 Basic Agency Functions
- 1200-08-30 Pediatric Emergency Care Facilities  
1200-08-30-.05 Basic Functions
- 1200-08-32 Standards for End Stage Renal Dialysis Clinics  
1200-8-32-.04 Basic Agency Functions
- 1200-08-34 Standards for Home Care Organizations Providing Professional  
Support Services  
1200-08-34-.06 Basic Agency Functions

1200-08-35 Standards for Outpatient Diagnostic Centers  
1200-08-35-.06 Basic Services

1200-08-36 Standards for Adult Care Homes-Level 2  
1200-08-36-.05 Administration

**6. APPROVAL OF MINUTES:**

**June 23, 2015**

- (1) Performance Improvement Issue Standing Committee Meeting
- (2) Performance Improvement Issue Standing and Facilities Construction Standing Committee Meeting
- (3) Facilities Construction Standing Committee Meeting

**September 17, 2015**

- (1) Education Standing Committee Meeting
- (2) Assisted Care Living Facility/Facilities Construction Standing Committee Meeting
- (3) Assisted Care Living Facility Standing Committee Meeting
- (4) Performance Improvement Issue Standing Committee Meeting

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

**A. CONSIDERATION.**

**(INITIALS)**

**B. RATIFICATION.**

**1. QUALIFYING APPLICATIONS**

**(INITIALS)**

Action DME, Woodbury, Home Medical Equipment Facility  
Alexander Guest House, Oak Ridge-Assisted Care Living Facility  
Animas Diabetes Care, LLC, Wayne-Home Medical Equipment Facility  
Brigadier General Wendell H. Gilbert TN State Veterans' Home,  
Clarksville-Nursing Home  
Christian Care Center of Memphis, Memphis-Nursing Home Facility  
Fresenius Medical Care Central Memphis, Memphis-End Stage Renal  
Disease Facility  
HealthSouth Rehabilitation Hospital of Franklin, Franklin-Hospital  
Facility  
Life Care Center of Blount County, Louisville-Nursing Home Facility

Medina Dialysis, Medina-End Stage Renal Disease Facility  
 NxStage Kidney Care Memphis-Germantown-End Stage Renal Disease Facility  
 Oakwood Senior Living, Knoxville-Assisted Care Living Facility  
 Optigen, Inc., Knoxville-Home Medical Equipment Facility  
 Owens and Minor Distribution, Inc., Knoxville-Home Medical Equipment Facility  
 Pentec Health, Inc., Nashville-Home Health Agency Facility  
 Pink Ribbons, LLC, Memphis-Home Medical Facility  
 Regional One Health Subacute Care, Memphis-Nursing Home Facility  
 Rose Care Home, Nashville-Home for the Aged Facility  
 Rural Health Services Durable Medical Equipment, Rogersville-Home Medical Equipment  
 Satellite Healthcare Chickasaw Gardens, Memphis-End Stage Renal Disease Facilities  
 Signature Living of Jefferson City, LLC, Jefferson City-Assisted Care Living Facility  
 Soigne Health Care Management, Inc., Cleveland-Home Medical Equipment Facility  
 T4 Medical, LLC, Goodlettsville-Home Medical Equipment Facility  
 Turner Surgery Center, LLC, Nashville-Ambulatory Surgical Treatment Center  
 Volunteer Medical Devices, PLLC, Blountville-Home Medical Equipment Facility  
 Volunteer Pharmacy, Knoxville-Home Medical Equipment Facility  
 WellPark at Shannondale, Knoxville-Nursing Home

2.

**(CHOWS)**

Adoration Hospice #618, Nashville-Hospice Facility  
 Adoration Hospice #616, Nashville-Hospice Facility  
 Brookdale Newport, Newport-Assisted Care Living Facility  
 Claiborne and Hughes Health Center, Franklin-Nursing Home Facility  
 Greenfield Assisted Living of Oak Ridge, LLC, Oak Ridge-Assisted Care Living Facility  
 Hearth at Hendersonville, Hendersonville-Assisted Care Living Facility  
 Legacy Assisted Living & Memory Care at Lenox Park, Memphis-Assisted Care Living Facility  
 NFC Surgery Center, Nashville-Ambulatory Surgical Treatment Center Facility  
 Surgery Center of Clarksville, Clarksville-Ambulatory Surgical Treatment Center

8. **LICENSE STATUS UPDATES.**

**BAPTIST REHABILITATION-GERMANTOWN, GERMANTOWN**

Baptist Rehabilitation-Germantown, Germantown was placed on inactive status for one (1) year with the effective date of the inactive status coincide with the date of the movement of the MRI services from this hospital location. Baptist Rehabilitation-Germantown's hospital license for eleven (11) beds will not be placed on inactive status as approved at the September 18, 2015 Board meeting. Baptist Rehabilitation-Germantown will be surrendering their hospital licensed #105 effective December 20, 2015. Services at that location will not be hospital based. On December 20, 2015 the MRI services and the outpatient therapy services will transfer simultaneously to Baptist Memorial Hospital-Memphis.

**MCKENDREE VILLAGE, HERMITAGE**

McKendree Village is a one hundred fifty (150) bed skilled nursing and long term care facility and has been approved by the Tennessee Health Services and Development Agency for an additional 30 skilled nursing beds at McKendree Village for a total of one hundred eighty (180) beds. McKendree Village is embarking on significant construction, renovation and upgrades that will enhance the environment and quality of life for all residents. These renovations and upgrades require significant work in all resident areas including residents' rooms, hallways, and common spaces. In order to accomplish these renovations McKendree Village is proposed utilizing North 1 as temporary residence space which residents and staff will be rotated while their units are being renovated and upgraded. McKendree Village anticipates that all units will be renovated within approximately 24 months.

9. **BOARD POLICY CONSENTS.**

A. **THE FOLLOWING NURSING HOMES ARE REQUESTING A WAIVER TO PROVIDE OUTPATIENT THERAPY SERVICES AS PROVIDED FOR BY BOARD POLICY #32:**

Creekside Health and Rehabilitation Center, Madison  
Ivy Hall Nursing Home, Elizabethton  
Summit View of Farragut, LLC, Knoxville

B. **THE FOLLOWING FACILITIES ARE REQUESTING APPROVAL TO PERMIT AN ADMINISTRATOR TO SERVE BOTH A NURSING HOME AND ASSISTED CARE LIVING FACILITY ACCORDANCE WITH BOARD POLICY #39:**

Good Samaritan Society-Fairfield Glade, Crossville (Nursing Homes) and (Assisted Living) for Good Samaritan Society-Fairfield Glade, Crossville

John M. Reed Nursing Home, Limestone and Eldereed Haus Assisted Care Living Facility, Limestone

**C. THE FOLLOWING FACILITY IS REQUESTING APPROVAL TO PROVIDE SHARE SERVICES IN ACCORDANCE WITH BOARD POLICY #51:**

Siskin Hospital Subacute Rehabilitation Program, Chattanooga

**10. REGULATION(S).**

**A. BOARD APPROVAL FOR RULEMAKING HEARING.**

- (1) APN admit and on-call services language of hospital regulations.
- (2) Tennessee Ambulatory Surgery Center Association (TASCA) recommended rule language of ASTC 1200-08-10-.06(2)(g) regarding the treatment of malignant hyperthermia (MH).
- (3) Approval of Rule language for ACLF Rule 1200-08-25-.10(2)(i) regarding Cooking Appliances.
- (4) Office of General Counsel to provide dietitian definition rule language for Board approval.

**11. REPORTS**

- A. **EMS REPORT** - Robert Seesholtz
- B. **OFFICE OF GENERAL COUNSEL REPORT** – Kyonzte' Hughes-Toombs

**12. DISCUSSION(S).**

- A. Tennessee Board for Licensing Health Care Facilities 2015 Performance Audit Report.
- B. **Standing Committee Summary(ies)**
  - (1) Facilities Construction/Assisted Care Living Facilities Standing Committee Meetings–November 16, 2015 and January 7, 2016.
  - (2) Performance Improvement Issue Standing Committee Meetings–December 15, 2015 and January 12, 2016.

C. Home Health Agency Rule 1200-08-26-.01(48) & 1200-08-26-.05(4)&(8) OGC to review following items for the request federal exemptions, BME & BOE requirements and all practitioners licensed in other states and practicing in Tennessee.

D. **Board Approval for the following Interpretative Guidelines**

- (1) Approval of Interpretative Guideline language for Assisted Care Living Facility Rule 1200-08-25-.10(2)(i) regarding Cooking Appliances.
- (2) Approval of Interpretative Guidelines for Nursing Homes for Vent Units.
  - (a) Nursing Home Rule 1200-08-06-.06(a)4(d) – “Readily Available”
  - (b) Nursing Home Rule 1200-08-06-.06(12)(a) – “Physically Present”
  - (c) Nursing Home Rule 1200-08-06-.06(12)(a)1 – “FDA approved”
  - (d) Nursing Home Rule 1200-08-06-.06(12)(a)4(b)–“Physician certified in Pulmonary disease or critical care medicine.”
- (3) Approval of Interpretative Guideline for TASCAs recommended rule language for ASTC Rule 1200-08-10-.06(2)(g).

13. **LICENSE STATUS REQUESTS.**

**PARAMOUNT HEALTHCARE SERVICES, INC., NASHVILLE**

This Professional Support Services facility is seeking to place their license on inactive status due to receiving a rejection letter of their Plan of Correction and currently they are not under contract. Their request is needed while Paramount Healthcare Services is attempting to obtain a Provider/Contract/Agreement with DIDD.

**Representative(s):** Emeka Nnadi, Director

**BELCOURT TERRACE NURSING HOME, NASHVILLE**

This forty-nine (49) bed nursing home facility is seeking to place their license on inactive status effective December 15, 2015 concurrent with the facility’s cessation of operations on that same date. The residents have been transferred to other appropriate facilities. This facility has undergone a change of ownership effective October 1, 2015 and has filed a CHOW application with our department.

**Representative(s):** Michaela Poizner, Attorney

**THE CENTER FOR ORAL AND FACIAL SURGERY, CHATTANOOGA**

This Ambulatory Surgical Treatment Center facility is seeking to place their license on inactive status for twelve (12) months.

**Representative(s):** Katie W. Appleberry



**BEST NURSES, INC., MEMPHIS**

The home health agency is seeking to place their license on inactive status due to this agency providing Medicare services is being review by ZPICs (contracted by CMS to inspect for fraud and abuse). Best Nurses, Inc., has been assessed a substantial extrapolated overpayments by the ZPIC's and it could take up to two (2) years in the appeal process with the ZPICs.

**Representative(s):** Regenna Williams, Administrator

**BAPTIST MEMORIAL-MEMPHIS SKILLED NURSING FACILITY, MEMPHIS**

This thirty-five (35) bed skilled nursing unit at Baptist Memorial Hospital-Memphis is requesting a third extension for their license to remain on inactive status for an additional twelve (12) months. Baptist Memorial Hospital-Memphis has not yet completed final plans for future operations of this unit. 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 which will expire on February 7, 2016.

**Representative(s):** Dan Elrod, Attorney

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

This eighteen (18) bed skilled nursing unit at Baptist Rehabilitation-Germantown is requesting an extension for their license to remain on inactive status for 12 months pending an evaluation as to the appropriate location and model for future operations. This extension will enable Baptist Memorial to reach a well-considered conclusion regarding the future for this facility.

**Representative(s):** Dan Elrod, Attorney

**QUILLEN REHABILITATION HOSPITAL, JOHNSON CITY**

This twenty-six (26) bed hospital is requesting to increase their bed count by ten (10) beds making a total of 36 beds. This request is made pursuant to the Tennessee Health Services and Development Agency statute T.C.A. § 68-11-1607(g). The need of the proposed increase in bed capacity is due to increasing patient volume.

**Representative(s):** Byron R. Trauger, Attorney

**14. 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) **SOUTHERN TENNESSEE REGIONAL HEALTH SYSTEM- WINCHESTER, WINCHESTER**

- Chris Puri, Attorney

(2) **DIVERSICARE OF MARTIN HEALTHCARE & REHABILITATION CENTER, MARTIN**

- Juanita Honeycutt, Regional Vice President

**B. OTHER WAIVER REQUEST(S)**

**REVISIT-GOVERNOR'S BEND ASSISTED LIVING FACILITY, ERWIN**

A one hundred twenty-four (124) bed facility is requested to waive 1200-08-25-.09(1) Building Standards regarding the HVAC issue and the Wireless Nurse Call Station. The statement references NFPA 90A, 5.3.3.1, 5.4.4 regarding HVAC and Fire Dampers. Their original architect's email reference for the exception to dampers was NFPA 32.3.3.7.10. The only reference to the Wireless Nurse Call Station System is UL 1069 edition 7 which is an AIA Guideline specifically references Hospitals and Nursing Homes. This ACLF facility would be covered under NFPA as a new residential board and care occupancy which these rooms would be considered our clients' homes.

**Representative(s):**Randy Trivette, Chief Financial Officer  
FreeWill Baptist Family Ministries

**THE COURTYARDS SENIOR LIVING-JOHNSON CITY, JOHNSON CITY #376**

This assisted care living facility is seeking to waive the following ACLF Rules 1200-08-.03(5) and Rule 1200-08-25-.03(6) in order to change the licensed number of bed capacity from 25 to 83 beds. The increase in number is adding 32 beds that are currently licensed as Continuum Courtyards, LLC, #259, a home for the aged facility and 26 beds currently licensed as Continuum Courtyards, LLC, #214, also a home for the aged facility and the two residential home for the aged (RHA) facilities licenses will be dissolve and the beds will be a part of the Courtyards Senior Living, Johnson City, an assisted care living facility. The ownership of business is Continuum Courtyard, LLC

**Representative(s):** Dava Snyder, Regional Director

**THE COURTYARDS SENIOR LIVING-KNOXVILLE 3, KNOXVILLE #377**

This assisted care living facility is seeking to waive the following ACLF Rules 1200-08-.03(5) and Rule 1200-08-25-.03(6) in order to change the licensed number of bed capacity from 25 to 57 beds. The increase in number is adding 32 beds that are currently licensed as Continuum Courtyard, LLC, #344 a home for the aged facility will increase the bed count to 57 beds currently licensed as Continuum Courtyards, LLC, #377, an assisted care living facility and will dissolve its RHA license #344. The ownership of business is Continuum Courtyard, LLC.

**Representative(s):** Dava Snyder, Regional Director

**SISKIN HOSPITAL SUBACUTE REHABILITATION PROGRAM, CHATTANOOGA AND SISKIN WEST, CHATTANOOGA f/k/a ST. BARNABAS NURSING HOME, CHATTANOOGA**

Siskin Hospital Subacute Rehabilitation Program a 23 bed facility is seeking to share the same administrator who is currently the administrator at Siskin West, Chattanooga which Siskin Hospital purchased and own both facilities and they are located in the same campus. The services provided are already consolidated or matrixed with the hospital. Siskin is seeking to waive nursing home regulation 1200-08-06-.04(1) so Ms. Cynthia Wheeler could use her 40+ hours per week across the two facilities.

**Representative(s):** Carol Sim, President and CEO

**MINUTES  
BOARD FOR LICENSING HEALTH CARE FACILITIES  
JANUARY 14, 2016**

The Board for Licensing Health Care Facilities Board meeting began January 14, 2016.

Ann Reed, Director of the Board for Licensing Health Care Facilities, called the meeting to order. She instructed the Board that a new Chairman Pro Tem needed to be nominated and voted upon as the former Chairman Pro Tem no longer served on the Board. Ms. Reed also informed the Board the newly elected Chairman Pro Tem would chair the meeting today. **John Marshall made a motion to nominate Jim Shulman; seconded by Robert Breeden. The motion was approved.** Mr. Shulman is the new Chairman Pro Tem.

Mr. Shulman introduced two new Board members, Thomas Gee replacing Robert Gordon as hospital administrator representative and Paul Boyd replacing Betty Hodge as consumer representative.

A roll call of attendance was taken by Ms. Reed.

Dr. René Saunders, Chairman – not here  
Mr. Robert Breeden – here  
Dr. Jennifer Gordon-Maloney – here  
Mr. Joshua Crisp – here  
Ms. Carissa Lynch – here  
Ms. Annette Marlar – not here  
Mr. John Marshall – here  
Dr. Michael Miller – not here (arrived at 9:40 am)  
Mr. David Rhodes - here  
Mr. Jim Shulman, Chairman Pro Tem – here  
Mr. Bobby Wood – here  
Mr. Roger Mynatt – here  
Dr. Sherry Robbins – here  
Dr. Kenneth Robertson – here  
Ms. Janet Williford – here  
Mr. Thomas Gee – here  
Mr. Paul Boyd - here

A quorum was established.

**CONTESTED CASE:**

Ms. Hughes-Toombs presented to the Board a contested case hearing was scheduled to occur this morning regarding Golden Years which is a home for the aged. She gave background to the summary suspension of the license in July 2015. Ms. Hughes-Toombs indicated the parties have begun negotiations regarding an agreement in lieu of the contested case hearing. She provided this to the Board for approval. Ms. Hughes-Toombs recapped the allegations contained in the agreement and was relevant during the summary suspension hearing – staffing issues at the facility, residents injured in the facility, a malnourished resident, lack of adequate food in the facility, appropriate registry checks not completed, and adequate lighting not found in certain rooms of the facility. Since the summary

suspension hearing, the facility has submitted a plan of correction. The proposed disciplinary action is as follows in the presented order the license remains suspended for 45 days effective immediately; at the conclusion of the 45 days, the license shall be placed on probationary status for at least two years; the regional survey office may complete an unannounced survey visit at least once a year, at the discretion of the regional office these may be conducted more often and are in addition to the annual survey; there shall be no violations related to care issues; there will be no repeated deficiencies from the June 2015 survey, if this occurs there would be further disciplinary action by the Board; and the disciplinary action will be reported to the appropriate databases. Mr. Shulman requested a motion be made in order to get discussion started. **Mr. Marshall made a motion to accept the order for purposes of discussion; seconded by Mr. Wood.** Dr. Robbins stated her recall from the summary suspension hearing was that some residents were made prisoner in their rooms by the choice of a staff member of the facility. She would like to know what happened with that. Ms. Hughes-Toombs stated during the summary suspension that the licensee was unaware that this had happened and terminated the employee upon finding out. Mr. Rhodes wanted clarity the facility is not in operation. Ms. Reed stated this should be the case. Ms. Hughes-Toombs also clarified for the Board the presented order should state the licensee must appear before the Board before the license can be removed from the probationary status. Mr. Mynatt asked why the continuation of the 45 day suspension. Ms. Hughes-Toombs stated it was due to the facility's history of deficiencies and as a deterrent to repeated deficiencies. Gerald Greene, legal counsel for Golden Years, stated the facility would like to move forward and show the Board the facility's compliance with the rules and regulations of the state. Dr. Robbins voiced concern over the suggestion of probation given the severity of the occurrences in the facility. She further stated the facility failed to have documentation that supported the facility's allegations that residents made their own choices regarding not eating, the history of deficiencies, and allowing a non-employee who was not licensed to evaluate a resident before determining the need to send the resident out for further evaluation. Mr. Greene indicated understanding of this concern of the Board, but requested the facility be allowed to operate per the conditions of the presented order. Ms. Hughes-Toombs also informed the Board this suggested order was discussed with the regional office supervisors responsible for the survey of this facility. Board members voiced concern there may not be an immediacy of action if another violation is found. Ms. Hughes-Toombs indicated if harm to residents is found upon a subsequent survey then permission would have to be granted by the Attorney General's Office. She also stated the submitted plan of correction if approved would result in a follow-up survey. Ms. Hughes-Toombs does not feel there would be enough time for bad outcomes to occur and not be found given this scenario of a revisit occurring. She also stated that between that time the unannounced surveys would occur as well as any complaint surveys if a complaint is made to the Complaint Intake Unit. Ms. Williford indicated this facility has had deficiencies in the past and made corrections, but deficiencies continued so how can it be determined that will not be the case this time. Dr. Robbins also stated the owner did not appear to take responsibility an administrator should. Mr. Crisp stated the operator/administrator had an ignorance of the minimum standards and lack of knowledge of what was occurring in the facility. He asked what actions the administrator has taken to educate themselves and how they plan to improve the facility. Mr. Greene stated the owner/administrator is now more involved with employees. He stated she has received further counseling on the requirements for her facility's licensure type. Mr. Greene also stated monitoring mechanisms will be put into place. Mr. Marshall voiced concern over the use of the bungee cord to restraint residents in their rooms. He further asked if there could be recourse to the Board members if they make a decision and the facility has further violations with greater severity. Ms. Hughes-Toombs stated there is no issue of recourse against the Board member. Dr. Miller voiced concern over residents reentering the facility and then if more violations are found requiring closure of the facility then the residents must go through that process all over again. He feels those residents seeking admission to the

facility need this information. Mr. Shulman asked if this was a suggestion for the order. Dr. Miller stated if it can be done as a part of the application process to the facility to include the current standing of the facility and that the license is under probation. Ms. Hughes-Toombs stated it could be done upon agreement of all parties. Mr. Breeden questioned if the facility was required to make available all survey results as nursing homes are to do. Ms. Hughes-Toombs stated yes. Mr. Shulman asked if the inclusion in the order of the requirement to provide new admissions with a copy of the Agreed Order with acknowledgement of the receipt of such information would be agreeable to all parties. Mr. Greene stated the entire order would be a burden on a potential patient or family member to read and could affect his client's business marketing. His thought was to insert a paragraph in the resident agreement that indicates the facility's current status would serve the same purpose. Dr. Robertson indicated that information is being added to the order regarding a contract he is recommending the addition of a paragraph that gives a family direction on how to go online to find the entire order. Mr. Shulman asked that legal counsel work with the facility and their legal representation to insert these recommendations into the Agreed Order. Mr. Greene asked if this would be during the entire probationary period of two years. Mr. Shulman stated it would run the entire time. Ms. Hughes-Toombs stated to the Board there is no requirement they accept the order and if the order is not accepted then a contested case would occur. Mr. Shulman stated the Board is aware of that, but wants to ensure that properly conducted survey take place fairly quickly in this facility. Dr. Robertson suggested the first unannounced survey should take place within the first 45 to 90 days with the continued randomness allowed under the suggested order. Mr. Breeden requested that off hours be included in the random surveys not just during business hours. Dr. Robbins again stated her discomfort with the probationary recommendation in the presented order. Legal counsel and Golden Years took time to work through the recommendations of the Board and to have this placed to a new order.

**\*\*\*\*Other Board work ensued during this time\*\*\*\***

Ms. Hughes-Toombs came back before the Board stating a signed Agreed Order including all the recommendations made by the Board during the previous presentation of the order was reached and copies are being made. Mr. Shulman asked if the Board does not approve the order what happens next, contested case hearing and would this be to permanently suspend the license or temporarily suspend the license or can this be answered. Ms. Hughes-Toombs stated the contested case hearing would be both parties presenting their proof and it would be up to the Board to determine disciplinary action. Mr. Shulman stated the Board would address other agenda items while waiting on the copies of the Agreed Order.

**\*\*\*\*Other Board work ensued during this time\*\*\*\***

Mr. Shulman indicated to the Board a copy of the Agreed Order is being shared with the Board members for the purposes of discussion. Ms. Hughes-Toombs directed the Board members to the location in the Agreed Order of the recommendations of the Board from previous discussion. The recommendations include at least four unannounced surveys, at least one after normal business hours, and notification of disciplinary action in its contract with new residents with submission of the notification language to legal counsel of the state for approval prior to including in admission contract. Dr. Robbins asked for reiteration of the allegations. Ms. Hughes-Toombs provided that for the record. **Mr. Marshall made a motion to amend the first motion to include the new verbiage addressing the issues the Board had before and listed along with grammatical corrections; seconded by Mr. Rhodes. The motion to accept the amendments was approved. Mr. Shulman then sought a voice vote for approval of the amended Agreed Order.**

Mr. Paul Boyd – Yes  
Mr. Robert Breeden – No  
Mr. Joshua Crisp – Yes  
Mr. Thomas Gee – Yes  
Dr. Jennifer Gordon-Maloney –Yes  
Ms. Carissa Lynch – Yes  
Mr. John Marshall – Yes  
Dr. Michael Miller – Yes  
Mr. Roger Mynatt – Yes  
Mr. David Rhodes – Yes  
Dr. Sherry Robbins – No  
Dr. Kenneth Robertson – No  
Mr. Jim Shulman – Yes  
Ms. Janet Williford – Yes  
Mr. Bobby Wood – Yes

The motion was passed.

#### **RULEMAKING HEARING:**

Mr. Shulman identified the next agenda item to be the rulemaking hearing and questioned the amount of time this would take. Ms. Reed indicated it could take considerable time. The Board meeting minutes were presented at this time.

#### **APPROVAL OF MINUTES:**

Ms. Reed indicated that all standing committee minutes presented had been approved by the appropriate standing committee except the June 23, 2015 Performance Improvement Issue (PI) and Facilities Construction Joint Standing Committee minutes. The PI Standing Committee had approved the minutes, but the Facilities Construction Standing Committee had question about the conclusion of the meeting as the recording of the meeting did not capture the conclusion of the meeting. Legal counsel gave guidance on how to complete i.e. use of administrative staff's meeting notes. This information was added and now presented to the joint committee for approval. **Mr. Marshall made a motion on behalf of the PI committee to approve the amended June 23, 2015 PI and Facilities Construction Standing Committee minutes; seconded by Janet Williford. The motion was approved. Mr. Rhodes made a motion on behalf of the Facilities Construction committee to approve the amended June 23, 2015 PI and Facilities Construction Standing Committee minutes; seconded by Dr. Kenneth Robertson. The motion was approved.** Mr. Shulman asked for a motion to approve the standing committee minutes presented for June 23 and September 17, 2015. **Mr. Marshall made a motion to approve these minutes; seconded by Roger Mynatt. The motion was approved.**

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

Ms. Reed presented the CHOW and initial licensure applications received by the Office of Health Care Facilities following a brief description of this portion of the agenda for the new Board members per the Chairman Pro Tem's request.

The following initial applications were processed by the Board's administrative staff without concern – Action DME, Woodbury – Home Medical Equipment (HME); Alexander Guest House, Oak Ridge – Assisted Care Living Facility (ACLF); Animas Diabetes Care, LLC; Wayne – HME; Brigadier General Wendell H. Gilbert TN State Veterans' Home, Clarksville – Nursing Home; Christian Care Center of Memphis, Memphis - Nursing Home; Fresenius Medical Care Central Memphis, Memphis - End Stage Renal Dialysis Clinic (ESRD); HealthSouth Rehabilitation Hospital of Franklin, Franklin – Hospital; Life Care Center of Blount County, Louisville – Nursing Home (Robert Breeden recused from the vote on this facility); Medina Dialysis, Medina – ESRD; NxStage Kidney Care Memphis, Germantown – ESRD; Oakwood Senior Living, Knoxville – ACLF; Optigen, Inc.; Knoxville – HME; Owens and Minor Distribution, Inc.; Knoxville – HME; Pentec Health, Inc.; Nashville – Home Health Agency; Pink Ribbons, LLC; Memphis – HME; Regional One Health Subacute Care, Memphis – Nursing Home; Rose Care Home, Nashville – Home for the Aged (RHA); Rural Health Services Durable Medical Equipment, Rogersville – HME; Satellite Healthcare Chickasaw Gardens, Memphis – ESRD; Signature Living of Jefferson City, LLC; Jefferson City – ACLF; Soigne Health Care Management, Inc.; Cleveland – HME; T4 Medical, LLC; Goodlettsville – HME; Turner Surgery Center, LLC; Nashville – Ambulatory Surgical Treatment Center (ASTC); Volunteer Medical Devices, PLLC; Blountville – HME; Volunteer Pharmacy, Knoxville – HME; WellPark at Shannondale, Knoxville – Nursing Home. **The applications were presented to the Board as initial applications and were ratified by the Board.**

The following CHOW applications were presented to the Board for approval without staff concern – Adoration Hospice #618, Nashville – Hospice; Adoration Hospice #616, Nashville – Hospice; Brookdale Newport, Newport – ACLF; Claiborne and Hughes Health Center, Franklin – Nursing Home; Greenfield Assisted Living of Oak Ridge, LLC; Oak Ridge – ACLF; Hearth at Hendersonville, Hendersonville - ACLF; Legacy Assisted Living & Memory Care at Lenox Park, Memphis – ACLF; NFC Surgery Center, Nashville - ASTC; Surgery Center of Clarksville, Clarksville – ASTC. **The applications were presented to the Board as CHOW applications and were ratified by the Board.**

### **LICENSURE STATUS UPDATE(S):**

Ms. Reed presented licensure status updates on the following two facilities – Baptist Rehabilitation-Germantown, Germantown and McKendree Village, Hermitage. Baptist Rehabilitation-Germantown's license was placed on inactive status for one (1) year with the effective date of the inactive status to coincide with the date of the movement of the MRI services from this hospital location. Baptist Rehabilitation-Germantown's hospital license for 11 beds will not be placed on inactive status as approved at the September 18, 2015 Board meeting. Baptist Rehabilitation-Germantown will be surrendering their hospital license, #105, effective December 20, 2015. Services at that location will not be hospital based. On December 20, 2015 the MRI services and the outpatient therapy services will transfer simultaneously to Baptist Memorial Hospital-Memphis. McKendree Village is a 150 bed licensed skilled nursing and long-term care facility. The facility received a certificate of need (CON) from the Health Services and Development Agency (HSDA) for an additional 30 skilled nursing home beds for a total of 180 licensed beds. McKendree Village is embarking on significant construction, renovation, and upgrades that will enhance the environment and quality of life for all residents. These renovations and upgrades require significant work in all resident areas including residents' rooms, hallways, and common spaces. In order to accomplish these renovations McKendree Village proposed utilizing North 1 as temporary resident space where residents and staff will be rotated while their specific units are being renovated and upgraded. McKendree Village anticipates that all units will be renovated within approximately 24 months.



## **BOARD POLICY CONSENTS:**

Ms. Reed 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 #39, permit a Nursing Home administrator to serve as administrator for both a Nursing Home and Residential Home for the Aged (RHA) and/or Assisted Care Living Facility (ACLF); and Board Policy #51, Sharing of Services.

Board Policy #32 requests –  
Creekside Health and Rehabilitation Center, Madison  
Ivy Hall Nursing Home, Elizabethton  
Summit View of Farragut, LLC; Knoxville

**Mr. Rhodes made a motion to approve the requests for Board Policy #32 waivers to be issued to Creekside Health and Rehabilitation Center, Madison; Ivy Hall Nursing Home, Elizabethton; and Summit View of Farragut, LLC; Knoxville; Mr. Marshall seconded. The motion was approved.**

Board Policy #39 requests –  
Good Samaritan Society-Fairfield Glade, Crossville (Nursing Home) and Good Samaritan Society-Fairfield Glade, Crossville (ACLF)  
John M. Reed Nursing Home, Limestone (Nursing Home) and Eldereed Haus Assisted Care Living Facility, Limestone (ACLF)

Ms. Reed made the Board members aware of the recent CMS enforcement action against the John M. Reed Nursing Home as well as the state's suspension of admissions for a period of time. She informed the Board the facility is now back into compliance with licensure and staff is working to finalize paperwork in order to lift the suspension of admissions.

**Mr. Marshall made a motion to approve the requests for Board Policy #39 waivers to be issued to Good Samaritan Society-Fairfield Glade, Crossville (Nursing Home) and Good Samaritan Society-Fairfield Glade, Crossville (ACLF) and John M. Reed Nursing Home, Limestone (Nursing Home) and Eldereed Haus Assisted Care Living Facility, Limestone (ACLF); seconded by Mr. Wood. The motion was approved.**

Board Policy #51 request –  
Siskin Hospital Subacute Rehabilitation Program, Chattanooga

Mr. Shulman desired explanation be made for Board Policy #51 for the new Board members. Ms. Reed stated this policy allows licensed facilities to share a certain list of services. Dr. Robbins asked about the sharing of an administrator. Ms. Reed indicated this is a separate waiver request and will be heard later in the meeting. **Mr. Rhodes made a motion to approve the request for Board Policy #51 waiver to be issued to Siskin Hospital Subacute Rehabilitation Program, Chattanooga; Robert Breeden seconded. The motion was approved.**

## **REGULATION(S):**

**Board Approval for Rulemaking Hearing –**

Ms. Reed presented to the Board the issue of advance practice nurses (APN) having admission privileges and providing on-call services in the hospital regulations. This was considered by the PI Standing

Committee. She indicated to the Board the current regulatory language appears to prohibit this practice. The PI Standing Committee considered this item and determined that CMS gave authority for this practice. Regulatory language was presented to the PI Standing Committee to allow this practice and was approved by the PI Standing Committee for presentation to the full Board. At this time, the Office of General Counsel did not have the language to present. This agenda item was tabled at this time.

## **DISCUSSION(S):**

### **Tennessee Board for Licensing Health Care Facilities 2015 Performance Audit Report –**

Vincent Davis, Director of Health Care Facilities, presented this item to the Board members. The Board was provided a complete audit report for review. Ms. Davis stated a few items were identified in the audit the Board members should be aware of and take action upon. He indicated medication administration in assisted living facilities was one item in the audit report. Mr. Davis stated this item has been brought to the Assisted Care Living Facility Standing Committee with the committee's comments and recommendations being available under the summary for this standing committee. He asked if any Board members had questions relative to the audit report. Mr. Marshall pointed out that several of the items on the audit were resource oriented such as the back log of scanning into new system, survey timeframes, etc. He further stated the Board members are not aware of the depth and scope of all that takes place during the performance audit. Mr. Marshall wanted to know more about the resource aspect. Mr. Davis responded. He stated the nationwide downturn in the economy has impacted the number of surveyors on staff. Mr. Davis indicated stop gaps have been put in place to address the significant lapses in survey timeframes for long-term care facilities. He stated this benchmark has been met. Mr. Davis stated the office still finds itself not meeting the compliant survey timeframes. He indicated there are suggested proposals for addressing this; one being a request for additional funding for staff which may take a year. Mr. Davis stated outside contract services will continue to be used to complete surveys. Mr. Marshall asked about the deemed status for facilities primarily hospitals and if offering any relief on meeting survey timeframes. Mr. Davis stated state law allows accreditation by a federally recognized accrediting body to suffice for meeting state licensure requirements. So, an annual survey could be omitted if a licensed facility has this type of accreditation. Mr. Breeden asked for clarification for nursing homes that are Joint Commission Accredited. Mr. Davis stated the federal government does not recognize nursing home accreditation. Mr. Shulman gave some background to the process and timing of the Comptroller's audits. He stated the review entails looking at past audit reports determining if those items have been addressed and then determining if there are new findings to report. Mr. Shulman stated it may serve the Board better to go through each item to determine where each stands and to continue to follow-up with each item going forward. He requested Mr. Davis to walk the Board through all the findings. The following is the report Mr. Davis gave on each audit item – **Audit Item #1:** Division of Health Care Facilities is not investigating complaints timely. Mr. Davis stated some concerns indicated in this finding have been addressed by amending the statute. He further stated the back log of complaints is an ongoing problem. Mr. Davis stated the annual survey timing has been addressed. He indicated to the Board the same surveyors perform annual and complaint surveys. Mr. Davis revisited the state statute that allows accreditation to stand in place of annual licensure surveys. He stated this eliminates a certain number of facilities from the pool of surveys that must be completed by the state surveyors for state licensure purposes. Mr. Davis provided numbers of complaints received from 2011 to 2015 which showed an increase in the number of complaints. He further stated the number of surveyors has not increased over this timeframe. Mr. Davis pointed out the number of these complaint investigations that are substantiated versus not substantiated. Dr. Michael Miller asked how many surveyors are there to complete annual and complaint surveys. Mr. Davis indicated the number is the same. He went on to state the vacancy for

surveyors from 2012 to 2014 was an average of 41%. Dr. Miller asked how many surveyors are contracted. Mr. Davis stated that a contract agency is used to do both annual and assist with some complaint surveys. Mr. Marshall asked how many surveys are complaints to CMS. Mr. Davis stated all complaints investigated if for a licensed facility are investigated on a federal and state level. Mr. Marshall asked if the CMS complaints are greater than the state level complaints. Mr. Davis stated that information is not available. Joshua Crisp questioned complaint surveys being sparked by disgruntled employees and if there was recourse for fraudulent complaints when unsubstantiated. Mr. Davis stated if a complaint is reported to the Complaint Intake Unit then the complaint must be investigated.

**Follow-up Audit Item #2:** Abuse registry partially resolved. Mr. Davis informed the Board the abuse registry process has several weakness such as the need for clear policies and procedures, increase management control and monitoring of complaint with policies, and improved documentation. He stated the item that was found by the audit was the timeliness of abuse investigations, hearings, and placement of persons recommended for placement on the abuse registry being done timely. Mr. Davis stated the three elements of this process scheduling of the hearing, judges' ruling, and the appeal process can take a considerable amount of time. He did not feel this item would be identified in the next audit. The question posed by Dr. Sherry Robbins was relative to Audit Item #1 which was the average time from receipt of a complaint and completion of the investigation. Mr. Davis stated all complaints are prioritized via a triage system and based upon the priority given to the complaint is how the timing of the investigation is determined. It can be anywhere from two to 45 days. Dr. Robbins further asked if there was issue with meeting the priority timeframes. Mr. Davis stated there are issues with meeting the priority timeframes.

**Follow-up Audit Item #3:** Board Waiver Policy. Mr. Davis stated this item was indicated by the auditors to have been partially addressed as the Follow-up Audit Item #2 had been. He stated the audit findings indicated the Board should develop and implement rules that require facilities to notify the Board of changes in the waiver status and that penalties should be imposed if a facility fails to notify the Board of changes. Mr. Davis further stated division management should develop formal procedures regarding the waiver tracking and monitoring. He stated the auditors were concerned that administrative staff was not aware of whether or not facilities had met the required timeframes of their granted waivers. Mr. Davis stated the administrative staff will have facilities notify the office in writing of whether they have met the waiver requirements or need an extension to the waiver. Mr. Davis also stated the Board does not have the statutory authority to impose monetary penalties on providers that do not adhere to the waiver timeline. At this point, Ms. Reed directed the Board members to review Board Policy #77. She pointed out the language of the originally developed policy and the new language inserted to comply with what Mr. Davis and audit had directed. She sought approval of this policy by the Board. **Mr. Rhodes made a motion to approve the revised Board Policy #77 as a response to the 2015 Performance Audit of the Board for Licensing Health Care Facilities; seconded by Carissa Lynch. The motion was approved.**

**Audit Item #4:** Board allows unlicensed staff to administer medication in assisted living facilities. Mr. Davis stated the audit indicated the assisted care living facility rules were unclear as to who can administer medication and the penalties for rule violations are insufficient. He gave examples of facilities that were reviewed by the auditors where the facilities were cited for unlicensed personnel administering medication and then assessed penalties of \$250. Mr. Davis stated the auditors indicated that their review of relevant statute and regulations gives no guidance to who is legally authorized to administer medications. He further stated the auditors' recommendation was for the Board for Licensing Health Care Facilities to amend its rules to clearly describe license medical practitioners. The Board should also develop a set of penalties that effectively deter assisted care living facilities from using unqualified staff to administer medications. Mr. Shulman stated clarifying rule language is to be presented to the Board to address the intent of the current law and regulation. Ms. Reed stated the

Assisted Care Living Facility (ACLF) Standing Committee has addressed this audit finding and have recommendations to present to the Board. Mr. Crisp informed the Board that during the ACLF Standing Committee it was determined that since the audit there had been additional changes in the rule language clarifying some of their concerns, the committee wanted further investigation of the civil monetary penalties to determine trends with repeat offenses, and to have legal counsel to draft rule language addressing who is licensed by law to administer medication. Mr. Davis made it known that the presentation of the audit to the Government Operations Committee is available online. He also let the Board know that the Government Operations Committee likes to see a member of the Board in attendance when the Office of Health Care Facilities has to present on relevant issues. Mr. Davis informed the Board the Government Operations Committee approved the sunset audit for the most part and have allowed the continuance of the Board for an additional year. Mr. Breeden had a further question regarding the audit report. He asked the number of complaints from nursing homes that are actually self-report items. Mr. Davis indicated he does not have this information, but will provide that information as well as the link to the session with the Government Operations Committee. He also gave background to the Board members on the self-report items versus the complaints. Mr. Davis stated that in 2007, the state underwent a federal performance review which found that the Office of Health Care Facilities was not accurately reporting all complaints when received as self-reports under state law. This increased the complaint numbers significantly. The last audit concern **Audit Item #5:** The Office of Healthcare Facilities (OHCF) does not have policies and procedures to require documentation of the safe transfer of patients and residents from closed facilities to other facilities. OHCF responded that there is a well vetted policy in place which includes multiple agencies with very detailed tools to use to effectuate the transfer of patients and residents. Mr. Davis further highlighted the federal process for termination of a facility's participation in the federal program and discharge of residents/patients. He stated this was explained to the Government Operations Committee which understood all processes are not in writing. For the purposes of the audit, this process has been captured in a policy and procedure. Mr. Davis spoke to one last item. He stated this was noted as an observation in the audit report. It was regarding the sprinkler system compliance information and the fact there were multiple locations of this information and difficulty determining which facilities were compliant. Mr. Davis indicated the final audit item, **Audit Item #6:** Significant backlog of documents to be scanned into LARS. He explained LARS is the new electronic licensing system used by the OHCF. Mr. Davis explained the transition to this new system resulted in glitches of the former system 'talking' to the new system in carrying information over. This has been addressed by providing the various areas within the Division the ability to scan their documentation into their respective licensure systems. Mr. Shulman requested this to be an ongoing agenda item, progress on the audit and to include reports on OHCF staffing.

#### **Standing Committee Summary(ies) –**

Assisted Care Living Facility Standing Committee summary was discussed during the Audit Report Discussion item. Another presented standing committee summary was from the Performance Improvement Standing Committee meetings of December 15, 2015 and January 12, 2016. The final presented standing committee summary was for the ACLF and Facilities Construction Standing Committee meetings of November 16, 2015 and January 7, 2016. Work from all of these standing committee meetings will be presented throughout the Board meeting.

#### **Home Health Agency Rule 1200-08-26-.01(48) & 1200-08-26-.05(4)&(8) –**

The Office of General Counsel (OGC) was requested to review this item and to bring back further information regarding the above rules and the requirements for practitioners specifically physicians in the state. The issue at hand is the home health agency rules referenced above require that a physician licensed in the state of Tennessee to be the ordering and supervising physician for patients admitted to

a home health agency. This has been an ongoing agenda item. The last discussion of this item revolved around exemptions in the Medical and Osteopathic Board rules for physicians. OGC was to review this further and to determine applicability to these rules. Devin Wells from OGC indicated Ms. Hughes-Toombs would be addressing this item and would need to be tabled until she was available to address.

**Board Approval for the Following Interpretative Guidelines (IG) –**

Ms. Reed presented the following interpretative guidelines, ACLF rule 1200-08-25-.10(2)(i), cooking appliances; Nursing Home rules 1200-08-06-.06(a)(4)(d), (12)(a), (12)(a)1, and (12)(a)4(b), ventilator units; and Ambulatory Surgical Treatment Center rule 1200-08-10-.06(2)(g). These interpretative guidelines are resultant work of the standing committees. Mr. Rhodes spoke in regards to the ACLF/Facilities Construction Standing Committee that voted on movement of the ACLF rule regarding cooking appliances. He stated the co-committees felt the current rule was too restrictive. **Mr. Rhodes made a motion to approve ACLF rule 1200-08-25-.40(2)(i), cooking appliances, IG; seconded by Dr. Robertson.** Chris Puri, representative for Tennessee Centers of Assisted Living, addressed the Board. He stated that TNCal supported the modification to the cooking appliance requirement. Mr. Puri further stated there was discussion about rule language development to make it clear that a facility could adopt a policy preventing the use of cooking appliances. Mr. Wells did not have the rule language in front of him to discuss and did not feel that OGC would have a problem with rule development. **The motion was approved.** Ms. Reed gave background to the development of the four (4) nursing home ventilator regulation interpretative guidelines. She stated this was presented to the Performance Improvement (PI) Standing Committee in September of last year and the associations in attendance requested time to review the IGs. The PI Standing Committee met again and considered these IGs once again. The associations indicated comfort with the proposed IGs. **Mr. Marshall made a motion to approve nursing home rules 1200-08-06-.06(a)(4)(d), (12)(a), (12)(a)1, and (12)(a)4(b), ventilator unit, IG; seconded by unidentifiable.** Mr. Breeden questioned invasive and non-invasive ventilator use especially in light of the Trilogy machines. He stated he is often questioned about what is required. Mr. Breeden stated he assumes if this machine is used in a nursing home setting the facility would have to meet the requirements of a ventilator facility. Ms. Reed stated this is true. Dr. Robbins questioned the implications of this by stating that the bi-pap and c-pap may be used on the Trilogy machines in the context of the limitations of the Trilogy machine and the Trilogy is to only be for mechanical ventilation. Mr. Breeden stated his understanding is that if used you have to meet the requirements of a ventilator unit. Mr. Marshall further addressed this issue. **The motion was approved.** For the final IG of the ambulatory surgical treatment center regulations, OGC was to review some of the terminology put forth by the Tennessee Ambulatory Surgical Center Association (TASCA) for this IG. Mr. Wells indicated that he did not have this IG review and that Ms. Hughes-Toombs would need to provide when available.

**LICENSE STATUS REQUEST(S):**

Ms. Reed presented the seven (7) licensure status requests.

**Baptist Memorial – Memphis Skilled Nursing Facility, Memphis -**

Janet Williford recused from this agenda item. This 35 bed skilled nursing unit at Baptist Memorial Hospital – Memphis sought a third extension of the inactive status of the facility’s license for 12 months. Baptist Memorial Hospital – Memphis has not yet completed final plans for the future operations of this unit. Baptist Memorial Hospital was granted the first inactive status on February 7, 2013 for 12 months; an extension was granted on January 23, 2014 for 12 months; and a second extension was granted for another 12 months on January 15, 2015. Mr. Dan Elrod was present on behalf of the facility. He stated that post-acute care is increasingly complicated so it takes time to determine the best way to implement

resources. The same comments apply to both skilled nursing unit requests found on the agenda for Baptist. **Mr. Marshall made a motion to approve the third extension of inactive status until February 17, 2017; seconded by Mr. Breeden. The motion was approved.**

**Baptist Skilled Rehabilitation Unit – Germantown, Germantown –**

Ms. Williford remained recused for this agenda item as well. This 18 bed skilled nursing unit at Baptist Rehabilitation – Germantown sought an extension for the inactive status of the facility’s license for 12 months. The request is due to a pending evaluation as to the appropriate location and model for future operations. Mr. Elrod also represented this facility. **Mr. Marshall made a motion to approve the extension of inactive status until February 17, 2017; seconded by Dr. Robbins. The motion was approved.**

**Rulemaking Hearing:**

The licensure status request portion of the agenda was interrupted to conduct the rulemaking hearing. Ms. Hughes-Toombs presented the following rules for consideration during the rulemaking hearing – insertion of flu vaccination language into all facility rules in which direct patient care takes place. The Board members introduced themselves as follows –

- Dr. Kenneth Robertson
- David Rhodes
- Tom Gee
- Paul Boyd
- Bobby Wood
- Dr. Michael Miller
- Dr. Jennifer Gordon-Maloney
- Carissa Lynch
- Janet Williford
- Robert Breeden
- Jim Shulman
- Dr. Sherry Robbins
- Roger Mynatt
- Joshua Crisp
- John Marshall

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-.06, 1200-08-02-.06, 1200-08-10-.06, 1200-08-11-.05, 1200-08-15-.06, 1200-08-24-.06, 1200-08-25-.06, 1200-08-26-.06, 1200-08-27-.06, 1200-08-28-.06, 1200-08-29-.06, 1200-08-30-.05, 1200-08-32-.04, 1200-08-34-.06, 1200-08-35-.06, and 1200-08-36-.05. The language presented is to add new language pertaining to the endorsement of influenza vaccinations for all health care workers and staff. 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. Dr. Robertson asked if the term annual evaluation is being defined or left to the facility to determine. Ms. Hughes-Toombs stated this term is not defined and the facility would determine. **Dr. Robbins made a motion to approve the presented new language for the above listed facility types’ set of regulations; seconded by Mr. Marshall. The motion was approved by a unanimous roll call vote.** An economic

impact statement and regulatory flexibility analysis were presented for the above rule language approval. **Mr. Rhodes made a motion to approve both the economic impact statement and regulatory flexibility analysis; seconded by Mr. Mynatt. The motion was approved.**

### **WAIVER REQUEST(S):**

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

#### Siskin Hospital Subacute Rehabilitation Program, Chattanooga and Siskin West, Chattanooga f/k/a St. Barnabas Nursing Home, Chattanooga –

Siskin Hospital Subacute Rehabilitation Program is a 23 bed facility seeking to share the same administrator who is currently the administrator at Siskin West, Chattanooga. Both facilities are under the common ownership of Siskin Hospital and are located on the same campus. The services provided by each facility have already been consolidated or matrixed with the hospital. Siskin is seeking to waive the nursing home regulation 1200-08-06-.04(1) so Ms. Cynthia Wheeler could use her 40 plus hours per week across the two facilities. Mr. Dan Elrod was the representative for the facility. Mr. Elrod provided the Board members with a further picture of the arrangement of these two facilities. He indicated that a bridge connects the two facilities and that the facilities are actually 92 steps apart. Mr. Marshall asked if there was consideration to combine the two licenses. Mr. Elrod indicated this may be considered in the future. **Mr. Marshall made a motion to approve the waiver request; seconded by Mr. Wood and Dr. Robbins. The motion was approved.**

#### Southern Tennessee Regional Health System – Winchester, Winchester –

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. Chris Puri was the representative for the facility. Mr. Puri stated the waiver is only needed for a matter of days until the new administrative is hired. Ms. Hughes-Toombs informed the Board of her language recommendation which was to grant the waiver until the permanent administrator starts or the next Board meeting whichever is earlier. **Mr. Marshall made a motion to approve the waiver until the permanent administrator starts or the next Board meeting whichever is earlier; seconded by Mr. Breeden. The motion was approved.**

#### Diversicare of Martin Healthcare & Rehabilitation Center, Martin -

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. Ms. Juanita Honeycutt, Regional Vice President, was the representative for the facility. **Mr. Marshall made a motion to grant the waiver request until the September 2016 Board meeting; second by Mr. Breeden. The motion was approved.**

#### Revisit – Governor’s Bend Assisted Living Facility, Erwin –

This is a 124 bed facility which requested to waiver 1200-08-25-.09(1) Building Standards regarding a HVAC issue and their wireless nurse call station. The statement references NFPA 90A, 5.3.3.1, 5.4.4 regarding HVAC and Fire Dampers. The facility’s original architect’s e-mail reference for the exception to the dampers was NFPA 32.3.3.7.10. The only reference to the wireless nurse call station is UL 1069 edition 7 which is an AIA Guideline and specifically references hospitals and nursing homes. This ACLF facility is covered under NFPA as a new residential board and care occupancy which would consider these rooms as the patients’ homes. Mr. Randy Trivette was the representative for the facility and participated by phone. Ms. Reed indicated Mr. Trivette is available to address any questions the Board

members may have. She went on to state the Governor's Bend request was taken up by the ACLF/Facilities Construction Standing Committees in a joint meeting. This committee met numerous times with a great deal of research by the OGC and information being provided by the facility to reach a decision on the issue. For the HVAC request, a recommendation was not made by the standing committees to move forward to the Board which the facility was in agreement with. The other item, wireless nurse call station, was addressed with a **recommendation for a waiver of the UL 1069 7<sup>th</sup> edition for five years until Governor's Bend Assisted Living Facility, Erwin can switch to the 2560 compliance system** to be considered by the Board. **Mr. Rhodes made a motion to accept the above stated waiver recommendation; seconded by Dr. Robbins. The motion was approved.**

The Courtyards Senior Living – Johnson City, Johnson City #376 –

This assisted care living facility sought to waive the following ACLF rules 1200-08-25-.03(5) and 1200-08-25-.03(6) in order to change the licensed number for bed capacity from 25 to 83 beds. The increase in number would add 32 beds that are currently licensed as Continuum Courtyards, LLC #259, a home for the aged facility and 26 beds currently licensed as Continuum Courtyards, LLC #214, also a home for the aged facility. The two residential home for the aged (RHA) facilities' licenses would dissolve and the beds would be a part of the Courtyards Senior Living – Johnson City ACLF license. Ms. Dava Snyder, Regional Director, represented the facility. Ms. Snyder stated the desire is to consolidate 3 buildings under 1 ACLF license which would increase the licensed bed count from 25 to 83. She stated that currently all three facilities are operated under the same policy and procedures, staffing, and administrators. Ms. Reed made the Board members aware of pictures that were provided to show the relationship of all the buildings in the request. **Dr. Robbins made a motion to approve the waiver request; seconded by Mr. Marshall. The motion was approved.**

The Courtyards Senior Living – Knoxville 3, Knoxville #377 –

This assisted care living facility sought to waive the following ACLF rules 1200-08-25-.03(5) and 1200-08-25-.03(6) in order to change the licensed number for bed capacity from 25 to 57 beds. The increase in number would add 32 beds that are currently licensed as Continuum Courtyards, LLC #344, a home for the aged facility. The one residential home for the aged (RHA) facility license would dissolve and the beds would be a part of the Courtyards Senior Living – Knoxville 3 ACLF license. Ms. Dava Snyder, Regional Director, represented the facility. She stated this is the same concept as the previous request except only two buildings are involved in this request. Pictures were also provided for this request. **Mr. Mynatt made a motion to approve the waiver request; seconded by Mr. Crisp. The motion was approved.**

**LICENSE STATUS REQUEST(S) CONT.:**

Ms. Reed continued with the seven licensed status requests presentation.

Paramount Healthcare Services, Inc.; Nashville –

This licensed Professional Support Services agency sought to place their license on inactive status due to the receipt of a rejection letter of their Plan of Correction from the state regional office and the facility currently does not have a contract with the Department of Intellectual and Developmental Disabilities (DIDD). The request is needed to allow Paramount opportunity to obtain a Provider/Contract/Agreement with DIDD. Emeka Nnadi, Director, was the representative for the facility. **Mr. Rhodes made a motion to grant the inactive status request; seconded by Dr. Robbins.** Mr. Marshall asked about a timeframe on the request. **Mr. Rhodes indicated for the period to the September 2016 Board meeting. The motion was approved.**



Belcourt Terrace Nursing Home, Nashville –

This 49 bed nursing home sought to place their license on inactive status effective December 15, 2015 which is the date concurrent with the facility's cessation of operations. All residents have been transferred. This facility has undergone a change of ownership effective October 1, 2015 and has filed the appropriate application with this department. Michaela Poizner represented the facility. Ms. Poizner requested the inactive status be for one year to allow the operator time to determine how to handle the beds under this license. **Mr. Marshall made a motion to approve the inactive status request until the January 2017 Board meeting; seconded by Ms. Lynch. The motion was approved.**

The Center for Oral and Facial Surgery, Chattanooga –

This ambulatory surgical treatment center (ASTC) sought to place their license in inactive status for 12 months. Katie W. Appleberry was the representative for the facility. Ms. Appleberry informed the Board that at this time the cost to maintain the ASTC is prohibitive and possible restructure of case mix will make the operation of the licensed facility feasible. **Mr. Marshall made a motion to approve the inactive status request until the January 2017 Board meeting; seconded by Mr. Wood. The motion was approved.**

Best Nurses, Inc.; Memphis –

This home health agency sought to place their license on inactive status due to agency's provision of Medicare services is currently under review by ZPICs (contracted by CMS to inspect for fraud and abuse). Best Nurses, Inc. has been assessed a substantial extrapolated overpayment by the ZPICs and it could take up to two years for the appeal process. Regenna Williams, Administrator, was the representative for the facility. Ms. Williams informed the Board the facility has gone through one year of the process, but cannot assure this will take additional year totaling two years. **Mr. Marshall made a motion to approve the inactive status request until the January 2017 Board meeting; seconded by Dr. Robbins. The motion was approved.**

Quillen Rehabilitation Hospital, Johnson City –

This 26 bed hospital sought to increase their licensed bed count by ten beds making a total of 36 beds. This request is made pursuant to the Tennessee Health Services and Development Agency (HSDA) statute T.C.A. §68-11-1607(g). The need for the proposed increase in bed capacity is due to increasing patient volumes. Byron R. Trauger was the representative for the facility. Ms. Reed informed the Board that the administrative office of Health Care Facilities does have the approval letter/notification from HSDA. **Mr. Marshall made a motion to approve the request based upon HSDA's in-depth review; seconded by Mr. Boyd. The motion was approved.**

## **REGULATION(S) CONT.:**

### **Board Approval for Rulemaking Hearing Cont.–**

Ms. Reed began with presentation of the APN admit and on-call services language for the hospital regulations. Ms. Hughes-Toombs asked that this item be considered last by the Board. Ms. Reed then moved to the Tennessee Ambulatory Surgery Center Association (TASCA) recommended language for ambulatory surgical treatment center regulation 1200-08-10-.06(2)(g) regarding the treatment of malignant hyperthermia (MH). This item was presented first to the Performance Improvement Standing Committee (PI). TASCA's original recommended language was amended and approved by the PI Standing Committee for presentation to the full Board for approval for rulemaking hearing. Ms. Hughes-Toombs recalled from the PI Standing Committee there being an issue with using a proper name for

medication in the regulations and this being in violation of anticompetitive laws. She further stated to her understanding the medication being named in the rule language is the only medication currently. Ms. Hughes-Toombs also stated there was concern voiced by the standing committee of whether or not to indicate a specific number of vials of medication to have on hand at a facility. She was not certain the standing committee gave direction on this aspect. Mr. Shulman questioned if the ruling was to move this forward or to take it back to the standing committee for further discussion. Ms. Reed indicated she could retrieve her notes from the last PI Standing Committee to determine the level of discussion on this rule language recommendation. Discussion ensued regarding the number of vials designation and the two availabilities of the medication. Mr. Shulman asked legal counsel if this item should return to the standing committee for further discussion. Ms. Hughes-Toombs indicated that it should. The PI Standing Committee members were agreeable to having this item moved back to the committee's agenda for further discussion. Ms. Reed presented as the next language for Board approval for rulemaking hearing. The language was for assisted care living facility (ACLF) rule 1200-08-25-.10(2)(i) regarding cooking appliances. Ms. Reed pointed out to the Board their approval of the interpretative guideline for cooking appliances as it relates to the new regulation language to be proposed. She further stated the interpretative guideline is the exact language of the recommendation. **Mr. Rhodes made a motion to approve the rule language recommendation for rulemaking hearing; seconded by Mr. Crisp. The motion was approved.** The next rule language recommendation presented to the full Board for approval for rulemaking hearing was for dietitian definition. Ms. Reed indicated this rule language was discussed in the PI Standing Committee as well. There was an element of the originally presented dietitian definition language that legal counsel needed to review further as it related to contract dietitians and whether they are considered employees of the hospital. The review results were presented to the PI Standing Committee which then developed rule language to address this concern and for the dietitian definition. Legal counsel presented to the full Board. Ms. Hughes-Toombs stated John Williams originally presented this recommended language and the issue with the language was the use of employee versus independent contractor. She further stated a dietitian could not practice unless licensed by the Board, but there is a statutory provision in the T.C.A. that must be considered. This language states employed and the rule language needs to be consistent with the term employee rather than including independent contractors which would run afoul of the statute. Mr. Shulman requested this to be repeated. Ms. Hughes-Toombs stated T.C.A. 63-25-104(B)(6) exempts people who are employed by a hospital from licensure requirements and there was an issue as to whether or not the term employee which is in the recommended rule language should include independent contractor as an employee. She felt there does not need to be an inclusion of independent contractor and the Board should stay with the term employee since this is in line with the statute. Mr. Shulman asked if this language was to fix this for the purposes of hospitals. Ms. Hughes-Toombs stated the rule is adding a definition of dietitian that is not just someone who is licensed by the Board of Dietician/Nutritionist Examiner, but is also someone who is an employee of a Tennessee hospital through the Tennessee licensure exemption pursuant to statute, but that holds the credential of a registered dietitian or registered dietitian/nutritionist from the Commission on Dietetic Registration which is in line with the Dietician Board's rules. Mr. Marshall stated the concern with setting a precedent of allowing someone that does not hold a licensure to practice in the state to actually practice in that profession in the state. Mr. Williams addressed the Board clarifying which language the Board was to consider on the handouts/IPads in front of them. Dr. Robertson stated the hospital would be responsible for addressing any fall out relative to the employed dietitian rather than the individual when talking about individual licensure. Mr. Williams pointed out the Board that licenses dietitians would not have authority over an employee of a hospital that happens to be a national registered dietitian, but not licensed in the state of Tennessee. **Mr. Marshall made a motion to approve the recommended dietitian definition and subsequent related rule language for rulemaking hearing; seconded by Dr. Robertson. The motion**

**was approved.** Ms. Reed presented as the last item for consideration for approval for rulemaking hearing the APN admit and on-call services language for hospitals. She further stated this considered by the PI Standing Committee as well. Ms. Hughes-Toombs stated this rule language for hospitals was presented to the standing committee indicating the allowance of advance practice nurses to admit patients to a hospital as long as it's within the scope of their practice and allowed by the hospital. She further stated she reviewed CMS requirements and found that was allowed via the CMS rules so a rule change is appropriate. Mr. Marshall wanted to clarify that a physician's signature would still be needed and the bylaws of the facility followed. Dr. Robbins wanted to clarify that this did not give the advanced practice practitioner independent privileges. That was determined to be correct by the standing committee members that heard this item. **Mr. Marshall made a motion to approve the recommended rule language for the hospital regulations; seconded by Mr. Mynatt. The motion was approved.**

## **DISCUSSION CONT.:**

### **Board Approval for the Following Interpretative Guidelines (IG) Cont.–**

The last IG for consideration under the above agenda item, approval of the IG for TASCA's recommended rule language for ASTC rule 1200-08-10-.06(2)(g), was recommended by Mr. Shulman to be referred back to the PI Standing Committee following in line with the earlier recommendation for the same rule language presented for rulemaking hearing approval. There was no objection by the Board.

## **REPORTS:**

### **EMS -**

Robert Seesholtz, EMS Trauma System Manager, was not in attendance to present the EMS report. His report was provided by Ms. Reed. Mr. Seesholtz provided for the Board members to review the August 15, 2015 Trauma Care Advisory Council meeting minutes. Ms. Reed also recapped for the Board members approval of a waiver request of trauma rule 1200-08-12-.04(4) for Vanderbilt University Medical Center's trauma program whereby the facility could forego trauma center designation by the state if American College of Surgeons verification was granted. The facility had undergone their verification review at the time of the September Board meeting. A follow-up visit in October of 2015 by the American College of Surgeons (ACS) was to occur. Vanderbilt University Medical Center was granted Level full Level 1 ACS trauma center verification and the next review for this verification will not be until 2017. Having been granted full Level 1 ACS trauma center verification would activate the waiver request received in August of 2015. The next item on Mr. Seesholtz' report was concerning neurosurgical call coverage at Johnson City Medical Center and Holton Valley Medical Center. These two facilities presented a corrective action plan which was deemed appropriate and accepted by this Board which was to submit monthly neurosurgical call schedules to Mr. Seesholtz until February 2016. Mr. Seesholtz stated in his written report each facility has been very complaint and requested of the Board the cessation of the submission of neurosurgical call schedules from each facility. **Mr. Marshall made a motion to cease the submission of the neurosurgical call schedules; seconded by Mr. Rhodes. The motion was approved.** The next item on Mr. Seesholtz' report was Regional One Medical Center trauma center site review. The results of that review were provided to the Board members for review. The visit indicated several deficiencies which included patient safety and process improvement program failure to demonstrate evidence of appropriate discussion of patient issues, development of action plans for resolution of issues, and action plans with no recommended loop closure. Another deficient practice found was attendance of required PIPS meetings fell short of the attendance requirements and two surgeons providing call lacked the appropriate number of trauma CMEs. The recommendation is for the facility to submit a corrective action plan within 60 days of this Board meeting and that a focused site evaluation should occur in one year. Dr. Reginald Coopwood, Chief Executive Officer from Regional One

was on the phone to address the Board. He acknowledges the cited deficiencies and the facility is working to put a response forward. The facility intends to reach compliance and intends to be in compliance when the site visit occurs next year. **Mr. Rhodes made a motion to accept the visit report on Regional One Medical Center; seconded by Mr. Breeden. The motion was approved.** The last item on Mr. Seesholtz' report that Ms. Reed commented on was that trauma center rule revision continues and two new applications for trauma centers have been received in the EMS Office.

#### **OGC -**

Ms. Kyonzté Hughes-Toombs, General Counsel, presented the Office of General Counsel's (OGC) report. She stated there are four (4) open cases actually three (3) since the Board earlier approved the presented Agreed Order. For the status of rules, Ms. Hughes-Toombs stated the Traumatic Brain Injury (TBI) rules will become effective on the 26<sup>th</sup> of this month. The speech therapy rules became effective last month on the 14<sup>th</sup>. Building Code Rules are being reviewed in the AG's office. The surgical technician rule requirement will be effective the 18<sup>th</sup> of this month as will the background check rule. There is to be a rulemaking hearing conducted today on the influenza vaccination rules. The advance care directive form rules are currently under review in OGC and will hopefully be ready for a rulemaking hearing at the May 2016 Board meeting. A large rule packet is still under internal review which includes repackaging medications, definition of secure unit, qualified social worker, order for home medical equipment, ASTC rule changes, hospital admissions, advanced practice nurse rules just approved today, storing medications, and fire safety. Hopefully, these will all be ready by the May 2016 Board meeting. Also, a special Board meeting is convened for March 2 to conduct a rulemaking hearing for rural area definition in the hospital rules.

#### **DISCUSSION CONT.:**

##### **Home Health Agency Rule 1200-08-26-.01(48) & 1200-08-26-.05(4)&(8) Cont.–**

Ms. Reed indicated we are back to the home health agency rule discussion item. We were not able to secure the requestor on the phone so I would look to legal counsel for direction on this item. Ms. Hughes-Toombs stated as a recap of the request this is in regards to VA physicians not licensed in Tennessee writing home health orders for veterans who are in Tennessee. The requestor, Ms. Elliot, has indicated that most other states have adopted exemptions that allow federal or publicly licensed physicians to write home health orders. Ms. Hughes-Toombs stated that she looked at the statutes and the rules for home care organizations providing home health services which does state orders have to be written by a physician in accordance with the statute that states a physician is someone who is licensed in Tennessee; however, T.C.A. 68-11-201(20)(g)(i) says, "for the purpose of defining home health service only physician also includes a person who is licensed to practice medicine or osteopathy in a state contiguous to Tennessee to the extent the physician has referred a patient residing in this state to a home care organization licensed under this part providing that nothing in this subdivision (20)(g) shall be construed as authorizing a nonresident physician or osteopath to practice in violation of 63-6-201 or 63-9-104 respectfully. A physician who is not licensed to practice medicine or osteopathy in this state shall not refer a patient who is a resident of the state to a home care organization licensed under this part unless the physician has previously provided treatment to the patient and has an ongoing physician/patient relationship with the person for whom the referral is made." Ms. Hughes-Toombs after reading this statute does not feel the Board has authority to allow for any further exemptions. She also stated the Board doesn't have authority over the VA or any federal facility, but once a patient is transferred to a home health agency this Board has authority. Dr. Miller stated he hopes that most of the physicians in the VA system are either Tennessee licensed or in a contiguous state, but realizes they don't have to be. The VA allows a physician to practice as long as the physician

holds a license in any state. Dr. Miller voiced concern of veterans having delays in receiving services, but it sounds like it is not this Board's decision to address. Mr. Marshall asked if the Board of Medical Examiners has any language addressing this issue with licensing. Ms. Hughes-Toombs stated she did not check that Board's rules and further stated the Board of Medical Examiners could not override the statute read. Mr. Marshall stated he agreed, but was looking to see if the Board of Medical Examiners' rules had a provision that would allow. Mr. Shulman asked if the person requesting provided any information on the federal statute and how it applies in other states. He also asked if this could be moved to a committee for further review. Ms. Reed indicated it could. Mr. Shulman stated he wants to comply with the statute, but feels some items are being missed and the individual is not on the phone and may have other information that would give indication of the federal regulations. Mr. Marshall clarified the Board was being asked to allow a home health agency to accept orders from a physician not licensed in Tennessee. Ms. Reed sought clarity to the allowance of physicians not licensed in Tennessee, but that are in contiguous states. She asked would they be able to refer their patients to a home health agency in Tennessee or is this included in legal counsel's interpretation that the physician must be licensed in Tennessee. Ms. Hughes-Toombs stated she would need to research further. Ms. Reed indicated it is one thing to refer a patient and another to write orders for that patient. Ms. Williford agreed from a home health perspective that referrals come from all doctors, but is not the same as the actual writing of orders for care and services. Dr. Robbins asked if home health agencies request a copy of a physician's license. Ms. Williford stated the agency she works for does, but isn't sure about other home health agencies. Mr. Shulman asked if this needed to be referred to a standing committee and invite the individual with the concern. **Mr. Marshall made a motion to move this item to the PI Standing Committee for further discussion; seconded by Dr. Robbins. The motion was approved.**

**Mr. Rhodes made a motion to adjourn the meeting; seconded by Mr. Breeden. The motion was approved and the meeting adjourned.**