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**TENNESSEE DEPARTMENT OF HEALTH
MEMORANDUM**

Date: February 15, 2018

To: Shelley Walker, Director of Communications and Media Relations

From: Wanda E. Hines, Board Administrator

Name of Board or Committee: Board for Licensing Health Care Facilities-Emergency
Called Rulemaking Hearing
(Call-in Number: 1-888-757-2790 passcode: 152602#)

Date of Meeting: March 15, 2018

Time: 9:00 a.m., CDT

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

Major Item(s) on Agenda: See Attached Agenda and Notice of Rulemaking Hearing.

You may also view the Notice at:

http://publications.tnsosfiles.com/rules_filings/01-19-18.pdf

BOARD MEMBERS WILL PARTICIPATE IN-PERSON AND BY TELEPHONE.

Link to Live Video Stream:

<https://web.nowuseeit.tn.gov/Mediasite/Play/875f3280d5894eaaa86bdb893d4a14551d>

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
EMERGENCY CALLED RULEMAKING HEARING**

**MARCH 15, 2018
POPLAR CONFERENCE ROOM, FIRST FLOOR**

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

- 1. CALL THE MEETING TO ORDER AND ESTABLISH A QUORUM.**
- 2. DISCUSSION(S).**
 - A. Revising the following Rules for Fee Increases for Rulemaking Hearing:
 - Chapter 1200-08-01 – Standards for Hospitals
 - Chapter 1200-08-06 – Standards for Nursing Homes
 - Chapter 1200-08-10 – Standards for Ambulatory Surgical Treatment Centers
 - Chapter 1200-08-11 – Standards for Homes for the Aged
 - Chapter 1200-08-26 – Standards for Homecare Organizations Providing Home Health Services
- 3. PUBLIC COMMENTS.**
- 4. ADJOURN.**

Department of State
Division of Publications
312 Rosa L. Parks Ave , 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 01-19-18
Notice ID(s): 2794-2798
File Date: 1/18/18

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission: Board for Licensing Health Care Facilities
Division: Department of Health
Contact Person: Caroline Tippens, Assistant General Counsel
Address: 665 Mainstream Drive, Nashville, Tennessee 37243
Phone: (615) 741-1611
Email: Caroline.Tippens@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact: ADA Coordinator
710 James Robertson Parkway,
Address: Andrew Johnson Building, 5th Floor, Nashville, Tennessee 37243
Phone: (615) 741-6350
Email: Tina.M.Harris2@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1: Metro Center
Address 2: 665 Mainstream Drive, Poplar Conference Room
City: Nashville
Zip: 37228
Hearing Date : 03/15/18
Hearing Time: 9:00 a.m. X CST/CDT EST/EDT

Additional Hearing Information:

Revision Type (check all that apply):

Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-08-01	Standards for Hospitals
Rule Number	Rule Title
1200-08-01-.02	Licensing Procedures

Chapter Number 1200-08-06	Chapter Title Standards for Nursing Homes
Rule Number 1200-08-06-.02	Rule Title Licensing Procedures
Chapter Number 1200-08-10	Chapter Title Standards for Ambulatory Surgical Treatment Centers
Rule Number 1200-08-10-.02	Rule Title Licensing Procedures
Chapter Number 1200-08-11	Chapter Title Standards for Homes for the Aged
Rule Number 1200-08-11-.02	Rule Title Licensing Procedures
Chapter Number 1200-08-26	Chapter Title Standards for Homecare Organizations Providing Home Health Services
Rule Number 1200-08-26-.02	Rule Title Licensing Procedures

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines_September2016.pdf.

Chapter 1200-08-01
Standards for Hospitals

Rule 1200-08-01-.02 Licensing Procedures is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

(4) Each hospital, except those operated by the U.S. Government or the State of Tennessee, making application for license under this chapter shall pay annually to the department a fee based on the number of hospital beds, as follows:

(a)	Less than 25 beds	\$ 1,040.00
(b)	25 to 49 beds, inclusive	\$ 1,300.00
(c)	50 to 74 beds, inclusive	\$ 1,560.00
(d)	75 to 99 beds, inclusive	\$ 1,820.00
(e)	100 to 124 beds, inclusive	\$ 2,080.00
(f)	125 to 149 beds, inclusive	\$ 2,340.00
(g)	150 to 174 beds, inclusive	\$ 2,600.00
(h)	175 to 199 beds, inclusive	\$ 2,860.00

For hospitals of two hundred (200) beds or more the fee shall be two thousand eight hundred and sixty dollars (\$2,860.00) plus two hundred dollars (\$200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable.

Authority: T.C.A. §§ 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-206, 68-11-209, 68-11-209(a)(1), 68-11-210, and 68-11-216.

Chapter 1200-08-06
Standards for Nursing Homes
Amendments

Rule 1200-08-06-.02 Licensing Procedures is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

(4) Each nursing home, except those operated by the U.S. Government or the State of Tennessee, making application for license under this chapter shall pay annually to the department a fee based on the number of nursing home beds, as follows:

(a)	Less than 25 beds	\$ 1,040.00
(b)	25 to 49 beds, inclusive	\$ 1,300.00
(c)	50 to 74 beds, inclusive	\$ 1,560.00
(d)	75 to 99 beds, inclusive	\$ 1,820.00
(e)	100 to 124 beds, inclusive	\$ 2,080.00
(f)	125 to 149 beds, inclusive	\$ 2,340.00

- (g) 150 to 174 beds, inclusive \$ 2,600.00
- (h) 175 to 199 beds, inclusive \$ 2,860.00

For nursing homes of two hundred (200) beds or more the fee shall be two thousand eight hundred and sixty dollars (\$2,860.00) plus two hundred dollars (\$200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable. When additional beds are licensed, the licensing procedures for new facilities must be followed and the difference between the fee previously paid and the fee for the new bed capacity, if any, must be paid.

Authority: T.C.A. §§ =68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-209, 68-11-210, 68-11-216.

Chapter 1200-08-10
Standards for Ambulatory Surgical Treatment Centers
Amendments

Rule 1200-08-10-02 Licensing Procedures is amended by deleting subparagraph (2)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph shall read:

- (b) Each applicant for a license shall pay an annual license fee in the amount of one thousand four hundred and four dollars (\$1,404.00). The fee must be submitted with the application and is not refundable.

Authority: T.C.A. 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-206, 68-11-209, 68-11-209, 68-11-210, and 68-11-216.

Chapter 1200-08-11
Standards for Homes for the Aged
Amendments

Rule 1200-08-11-02 Licensing Procedures is amended by deleting subparagraph (2)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph shall read:

- (b) Each applicant for a license shall pay an annual license fee based on the number of beds as follows:
 1. Less than 6 beds \$ 390.00
 2. 6 to 24 beds, inclusive \$ 1,040.00
 3. 25 to 49 beds, inclusive \$ 1,300.00
 4. 50 to 74 beds, inclusive \$ 1,560.00
 5. 75 to 99 beds, inclusive \$ 1,820.00
 6. 100 to 124 beds, inclusive \$ 2,080.00
 7. 125 to 149 beds, inclusive \$ 2,340.00
 8. 150 to 174 beds, inclusive \$ 2,600.00
 9. 175 to 199 beds, inclusive \$ 2,860.00

For homes for the aged of two hundred (200) beds or more the fee shall be two thousand eight hundred and sixty dollars (\$2,860.00) plus two hundred dollars (\$200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be

submitted with the application or renewal and is not refundable.

Authority: T.C.A. 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-209, 68-11-210, and 68-11-216.

Chapter 1200-08-26
Standards for Homecare Organizations Providing Home Health Services
Amendments

Rule 1200-08-26-.02 Licensing Procedures is amended by deleting subparagraph (2)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph shall read:

- (b) Each applicant for a license shall pay an annual license fee in the amount of one thousand four hundred and four dollars (\$1,404.00). The fee must be submitted with the application and is not refundable.

Authority: T.C.A. §§ 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-209, 68-11-210, and 68-11-216.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 1/18/2018

Signature: Caroline R. Tippens

Name of Officer: Caroline Tippens
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____



Department of State Use Only

Filed with the Department of State on: 1/18/18

Tre Hargett

Tre Hargett
Secretary of State

2018 JAN 18 PM 3:48
SECRETARY OF STATE

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
EMERGENCY CALLED DISCIPLINARY MEETING
MARCH 15, 2018

The Board for Licensing Health Care Facilities emergency called Board meeting began March 15, 2018.

Dr. René Saunders, chairman, called the meeting to order. Ann Reed, Director of the Board for Licensing Health Care Facilities, conducted a roll call of attendance.

Dr. René Saunders, Chairman – not here
Mr. Robert Breeden – here
Dr. Jennifer Gordon-Maloney – not here
Mr. Joshua Crisp – here
Ms. Carissa Lynch – here via phone
Ms. Annette Marlar – not here
Mr. Thomas Gee – here
Mr. Chuck Griffin – not here
Mr. Jim Shulman, Chairman Pro Tem – here
Mr. Bobby Wood – here
Mr. Roger Mynatt – here
Dr. Sherry Robbins – here via phone
Dr. Kenneth Robertson – here
Ms. Janet Williford – here
Dr. Evelyn Brock – not here
Mr. Paul Boyd – not here
Ms. Gina Throneberry – here
Dr. Lisa Piercey – here via phone
Ms. Patricia Ketterman – here via phone

A quorum was established. Mr. Shulman served as chairman of this emergency called Board meeting.

DISCUSSION:

Rulemaking Hearing -

Caroline Tippens with the Office of General Counsel and attorney for the Board for Licensing Health Care Facilities (BLHCF) conducted a rulemaking hearing for the fee increase language for the following facility types – hospitals, nursing homes, ambulatory surgical treatment centers (ASTC), homes for the aged (RHA), and home health agencies (HHA). She stated this language once approved would be in the Secretary of States (SOS) Office for 90 days prior to becoming effective. Ms. Tippens also stated the fee increase rule language for the remaining licensed facilities will be presented to the Board at a later rulemaking hearing. **Mr. Mynatt made a motion to approve the presented fee increase rule language; seconded by Ms. Williford. The motion was approved.**

Ms. Tippens presented the statement of economic impact and regulatory flexibility analysis to the Board regarding this fee increase rule language for approval. **Mr. Crisp made a motion to approve both forms as presented; seconded by Dr. Robertson/Ms. Williford. The motion was approved.**

Proposed Nursing Home Drug Disposal Rules Suggested Changes –

Ms. Tippens presented to the Board the suggested changes for the nursing home drug disposal rules as put forth by the Attorney General's Office. She stated it was rewording of the originally presented language. It was further explained to the Board that emergency rules of the original language are in place for 180 days then the proposed rules will go into effect. **Mr. Breeden made a motion to approve the recommended changes to the nursing home drug disposal language in the proposed rules; seconded by Dr. Robertson.** Mr. Shulman clarified the emergency rules were in place, the timeframe for such, and when the proposed rules would go into effect. Ashley Fine with the Office of General Counsel confirmed the emergency rules were in place and would be so for 180 days then the proposed rules would go into effect. Ms. Tippens stated the emergency rules are posted on-line.

CONSENT ORDER(S):

The following consent order was presented by Ms. Tippens.

Chandler House – Assisted Care Living Facility (ACLF) – Survey conducted resulting in a \$500 Civil Monetary Penalty (CMP). **Dr. Robertson made a motion to approve; seconded by Ms. Williford.** Ms. Williford asked if the facility had been resurveyed. Ms. Tippens stated this depends on the facility's submission of a plan of correction (POC) and that being deemed acceptable. She further stated once this occurs a revisit by surveyors would occur when available. Mr. Shulman asked if the facility recognizes the importance of the failure to administer medications. Ms. Tippens reiterated the requirement of a POC submission and a revisit survey. Mr. Shulman stated his office conducts surprise audits and asked if this can be done by OHCF. Ms. Reed stated all surveys are technically a surprise, but the office would need cause to visit a facility such as a complaint or the annual survey. **The motion was approved.**

Ms. Tippens then brought to the Board revisions to the Traumatic Brain Injury Residential Home (TBI) regulations. She stated the revision is to the definition of TBI removing the eight (8) bed limit plus the removal of all references to the eight (8) bed limitation. Ms. Tippens also stated the fee structure language would be added to the rules as well. Mr. Shulman asked if this is a part of the fee increase rules previously presented. Ms. Tippens stated yes. **Mr. Breeden made a motion to approve for rulemaking hearing the above revision for the TBI rules; seconded by Mr. Mynatt. The motion was approved.**

Ms. Reed informed the Board and wanted on record the passing of Dr. Tom Walker a former Board member on March 7, 2018.

The meeting was adjourned.