

**Redline of Proposed Changes to Chapter Number 0720-23
Standards for Homes for Residential Hospices**

0720-23-.01 DEFINITIONS.

(14) ~~Commission. Health Facilities Commission. Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.~~

~~(17) Department. The Tennessee Department of Health.~~

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~~(38) Infectious Waste. Solid or liquid wastes which contain pathogens with sufficient virulence and quantity such that exposure to the waste by a susceptible host could result in an infectious disease.~~

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~~(66) Regulated Waste. Liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials, as defined in United States Department of Labor Occupational Safety & Health Administration, 1910.1030, Bloodborne Pathogens.~~

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0720-23-.03 DISCIPLINARY PROCEDURES.

(1) The board may suspend or revoke a license for:

- (a) Violation of state statutes;
- (b) Violation of the rules as set forth in this chapter;
- (c) Permitting, aiding or abetting the commission of any illegal act in the home;
- (d) Conduct or practice found by the board to be detrimental to the health, safety, or welfare of the residents of the residential hospice; and
- (e) Failure to renew the license.

(2) The board may consider all factors which it deems relevant, including but not limited to the following, when determining sanctions:

- (a) The degree of sanctions necessary to ensure immediate and continued compliance;
- (b) The character and degree of impact of the violation on the health, safety and welfare of the residents in the residential hospice;
- (c) The conduct of the residential hospice in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and
- (d) Any prior violations by the residential hospice of statutes, rules or orders of the board.

- (3) When a facility is found by the department to have committed a violation of this chapter, the department will issue to the facility a statement of deficiencies. Within ten (10) days of the receipt of the statement of deficiencies the facility must return a plan of correction indicating the following:
- (a) How the deficiency will be corrected;
 - (b) The date upon which each deficiency will be corrected;
 - (c) What measures or systemic changes will be put in place to ensure that the deficient practice does not recur; and
 - (d) How the corrective action will be monitored to ensure that the deficient practice does not recur.
- (4) Either the failure to submit a plan of correction in a timely manner or a finding by the department that the plan of correction is unacceptable shall subject the facility's license to possible disciplinary action.
- (5) If the same or different deficiencies are cited on the third revisit survey, then the department may pursue disciplinary action against the facility before the board, including seeking reimbursement for the un-recouped costs associated with subsequent revisit surveys that were incurred by the department.
- ~~(56)~~ Any licensee or applicant for a license, aggrieved by a decision or action of the department or board, pursuant to this rule, may request a hearing before the board. The proceedings and judicial review of the board's decision shall be in accordance with the Uniform Procedures Act, T.C.A. §§ 4-5-101, et seq.
- ~~(67)~~ Reconsideration and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-04-01-.18 regarding petitions for reconsiderations and stays in that case.
- (8) Order of Compliance - This procedure is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
- (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
- 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
- (b) Procedures
- 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and

(ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and

(iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

(i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or

(ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and Rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Social Worker Licensure

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's E-Mail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's E-Mail Address: _____

Telephone Number: _____

~~(d) All discarded sharps (including but not limited to, hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) used in resident care or which have come into contact with infectious agents during use in medical, research, or industrial laboratories;~~

~~(e) Other waste determined to be infectious by the facility in its written policy.~~

- (3) ~~Infectious-Regulated~~ and hazardous waste must be segregated from other waste at the point of generation (i.e., the point at which the material becomes a waste) within the facility.
- (4) Waste must be packaged in a manner that will protect waste handlers and the public from possible injury and disease that may result from exposure to the waste. Such packaging must provide for containment of the waste from the point of generation up to the point of proper treatment or disposal. Packaging must be selected and utilized for the type of waste the package will contain, how the waste will be treated and disposed, and how it will be handled and transported, prior to treatment and disposal.
 - (a) Contaminated sharps must be directly placed in leakproof, rigid, and puncture-resistant containers which must be tightly sealed.
 - (b) Whether disposable or reusable, all containers, bags, and boxes used for containment and disposal of infectious waste must be conspicuously identified. Packages containing infectious waste which pose additional hazards, including but not limited to, chemical and radiological must also be conspicuously identified to clearly indicate those additional hazards.
 - (c) Reusable containers for ~~regulated and hazardous~~~~infectious~~ waste must be thoroughly sanitized each time they are emptied, unless the surfaces of the containers have been completely protected from contamination by disposable liners or other devices removed with the waste.
 - (d) Opaque packaging must be used for pathological waste.
- (5) After packaging, waste must be handled and transported by methods ensuring containment and preserving the integrity of the packaging, including the use of secondary containment where necessary.
 - (a) Waste must not be compacted or ground (i.e., in a mechanical grinder) prior to treatment, except that pathological waste may be ground prior to disposal; and,
 - (b) Plastic bags of ~~regulated and hazardous~~~~infectious~~ waste must be transported by hand.
- (6) Waste must be stored in a manner which preserves the integrity of the packaging, inhibits rapid microbial growth and putrefaction, and minimizes the potential of exposure or access by unknowing persons. Waste must be stored in a manner and location which affords protection from animals, precipitation, wind, direct sunlight, does not present a safety hazard, does not provide a breeding place or food source for insects or rodents and does not create a nuisance.
- (7) In the event of spills, ruptured packaging, or other incidents where there is a loss of containment of waste, the facility must ensure that proper actions are immediately taken to:
 - (a) Isolate the area from the public and non-essential personnel;
 - (b) To the extent practicable, repackage all spilled waste and contaminated debris in accordance with the requirements of this section;

- (c) Sanitize all contaminated equipment and surfaces appropriately and in accordance with written policies and procedure; and,
 - (d) Complete an incident report and maintain a copy on file.
- (8) Except as provided otherwise in this section, a facility must treat or dispose of infectious waste by one or more of the methods specified in this part.
- (a) A facility may treat ~~regulatedinfectious~~ waste in an on-site sterilization or disinfection device, or in an incinerator or a steam sterilizer, which has been designed, constructed, operated and maintained so that ~~regulatedinfectious~~ waste treated in such a device is rendered non-~~infectious-hazardous~~ and is, if applicable, authorized for that purpose pursuant to current rules of the Department of Environment and Conservation. A valid permit or other written evidence of having complied with the Tennessee Air Pollution Control Regulations shall be available for review, if required. Each sterilizing or disinfecting cycle must contain appropriate indicators to assure conditions were met for proper sterilization or disinfection of materials included in the cycle, and records kept. Proper operation of such devices must be verified at least monthly, and records of these monthly checks shall be available for review. Waste that contains toxic chemicals that would be volatilized by steam must not be treated in steam sterilizers. ~~Infectious-Regulated~~ waste that has been rendered to a carbonized or mineralized ash shall be deemed non-~~infectioushazardous~~, unless ~~otherwise hazardous and~~ subject to the hazardous waste management requirements of the current rules of the Department of Environment and Conservation, such ash shall be disposable as a (non-hazardous) solid waste under current rules of the Department of Environment and Conservation.
 - (b) The facility may discharge liquid or semi-liquid ~~infectious-regulated~~ waste to the collection sewerage system of a wastewater treatment facility which is subject to a permit pursuant to T.C.A. §§ 69-3-101, et seq., provided that such discharge is in accordance with any applicable terms of that permit and/or any applicable municipal sewer use requirements.
 - (c) Any health care facility accepting waste from another state must promptly notify the Department of Environment and Conservation, county, and city public health agencies, and must strictly comply with all applicable local, state and federal regulations.
- (9) The facility may have waste transported off-site for storage, treatment, or disposal. Such arrangements must be detailed in a written contract, available for review. If such off-site location is in Tennessee, the facility must ensure that it has all necessary state and local approvals, and such approvals shall be available for review. If the off-site location is in another state, the facility must notify in writing all public health agencies with jurisdiction that the location is being used for management of the facility's waste. Waste shipped off-site must be packaged in accordance with applicable federal and state requirements. Waste transported to a sanitary landfill in this state must meet the requirements of current rules of the Department of Environment and Conservation.
- (10) All garbage, trash and other non-~~infectious-regulated~~ waste shall be stored and disposed of in a manner that shall not permit the transmission of disease, create a nuisance, provide a breeding place for insects and rodents, or constitute a safety hazard. All containers for waste shall be water tight, constructed of easily-cleanable material and shall be kept on elevated platforms.