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___ Amendment
_X_ New
___ Repeal

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

Chapter Number	**Chapter Title**
1200-08-36	Standards for Adult Care Homes – Level 2
Rule Number	**Rule Title**
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(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://state.tn.us/sos/rules/1360/1360.htm)

Chapter 1200-08-36
Standards for Adult Care Homes
Level 2

New Rules

1200-08-36-.01 Definitions.

(1) "Abuse" means the infliction of physical pain, injury, or mental anguish or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult or a situation in which an adult is unable to provide or obtain the services that are necessary to maintain that person's health or welfare.

(2) "Activities of Daily Living (ADLs)" means those activities which indicate an individual's independence in eating, dressing, personal hygiene, bathing, toileting, ambulating, and medication management.

(3) "Adequate evacuation" means the ability of the adult care home provider, resident manager, or substitute caregiver, including such additional minimum staff as may be required by the Board in regulation, to evacuate all residents from the dwelling within five (5) minutes.

(4) "Administering medication" means the direct application of a single dose of a medication to the body of a resident by injection, inhalation, ingestion, topical application or by any other means.

(5) "Adult" means a person 18 years of age or older.

(6) "Adult care home (ACH)" means a single family residence licensed pursuant to this act in which twenty-four (24) hour residential care, including assistance with activities of daily living, is provided in a homelike environment to no more than five (5) elderly or disabled adults.

(7) "Adult care home provider" means a person who is twenty-one (21) years of age or older that owns and operates an adult care home.

(8) "Adult care home resident" means an individual residing at the adult care home who is ventilator dependent or who suffers from a traumatic brain injury.

(9) "Assessment" means a procedure for determining the nature and extent of the problem(s) and needs of a resident or potential resident to ascertain if the ACH can adequately address those problems, meet those needs, and secure information for use in the development of the individual care plan.

(10) "Board" means the Board for Licensing Health Care Facilities.

(11) "Cardiopulmonary resuscitation (CPR)" means the administering of any means or device to restore or support cardiopulmonary functions in a resident, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilators or respirators, defibrillation, the administration of drugs and/or chemical agents intended to restore cardiac and/or respiratory functions in a resident where cardiac or respiratory arrest has occurred or is believed to be imminent.

(12) "Disabled" means an individual who is ventilator dependent or who has a traumatic brain injury.

(13) "Do Not Resuscitate (DNR) Order" means a written order entered by the resident's treating physician in the resident's medical record which states that in the event the resident suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted. The order

may contain limiting language to allow only certain types of cardiopulmonary resuscitation to the exclusion of other types of cardiopulmonary resuscitation.

(14) "Elderly" means an individual who is fifty-five (55) years of age or older.

(15) "Emergency" means any situation or condition which presents an imminent danger of death or serious physical or mental harm to residents.

(16) "Exploitation" shall have the same meaning as set forth in T.C.A. §68-11-1004(a)(2).

(17) "Health care" means any care, treatment, service or procedure to maintain, diagnose, treat, or otherwise affect an individual's physical or mental condition, and includes medical care as defined in T.C.A. §32-11-103(5).

(18) "Health care decision" means an individual's consent, refusal of consent or withdrawal of consent to health care.

(19) "Health care decision-maker" means that in the case of a resident who lacks capacity, the resident's health care decision-maker is one of the following: the resident's health care agent as specified in an advance directive, the resident's court-appointed guardian or conservator with health care decision-making authority, the resident's surrogate as determined pursuant to T.C.A. § 68-11-1806, or the individual's designated physician pursuant to T.C.A. § 68-11-1802(a)(4).

(20) "Home like" means an environment that promotes the dignity, security and comfort of residents through the provision of personalized care and services and encourages independence, choice and decision-making by the residents.

(21) "Infectious waste" means solid or liquid wastes which contain pathogens with sufficient virulence and quantity such that exposure could result in an infectious disease.

(22) "Level 2 home" means an adult care home that provides services to residents who are ventilator dependent or who have a traumatic brain injury.

(23) "Licensed health care professional" means any health care professional currently licensed by the State of Tennessee to practice within the scope of a regulated profession, such as a nurse practitioner, registered nurse, licensed practical nurse, (nurses may be licensed or hold multistate licensure pursuant to Tennessee Code Annotated §§ 63-7-101 et seq.), dietitian, dentist, occupational therapist, pharmacist, physical therapist, physician, physician assistant, psychologist, clinical social worker, respiratory therapist, speech-language pathologist, and emergency service personnel.

(24) "Licensee" means the person, association, partnership, corporation, company or public agency to which the license is issued. For the purposes of these rules, the term "licensee" is synonymous to "adult care home provider."

(25) "Medical record" means documentation of medical histories, nursing and treatment records, care needs summaries, physician orders, and records of treatment and medication ordered and given which must be maintained by the ACH, regardless of whether such services are rendered by ACH staff or by arrangement with an outside source.

(26) "Misappropriation" means any taking, possession or use of the property of a vulnerable person, the elements of which constitute any criminal offense involving such property, or that constitute a violation of a fiduciary duty of a caretaker of a vulnerable person.

(27) "NFPA" means the National Fire Protection Association.

(28) "Neglect" means the infliction of physical pain, injury, or mental anguish or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult or a situation in which an adult is unable to provide or obtain the services that are necessary to maintain that person's health or welfare.

(29) "Occupant" means anyone residing in or using the facility of the adult care home including residents, the adult care home provider, resident manager, substitute caregiver, staff, and an adult care home provider's family members or a resident manager's family members.

(30) "Person" means an individual, association, estate, trust, corporation, partnership, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(31) "Personal services" means those services rendered to residents who need supervision or assistance in activities of daily living. Personal services do not include nursing or medical care.

(32) "Power of Attorney for Health Care" means the legal designation of an agent to make health care decisions for the individual granting such power under T.C.A. §§ 34-6-201, et seq.

(33) "Resident manager" means a person twenty-one (21) years of age or older who lives in an adult care home and oversees the day-to-day operation of the adult care home on behalf of the adult care home provider.

(34) "Retaliation" means increasing charges, decreasing services, rights or privileges; taking or threatening to take any action to coerce or compel the resident to leave the facility; or abusing or threatening to harass or abuse a resident in any manner.

(35) "Self-administration of medication" means assistance in reading labels, opening dosage packaging, reminding residents of their medication, and observing the resident while taking medication in accordance with the plan of care.

(36) "Specialized services" means services provided to ventilator dependent residents and residents with a traumatic brain injury.

(37) "Substitute caregiver" means any person twenty-one (21) years of age or older who temporarily oversees care and services in an adult care home during the short-term absence of the adult care home provider or resident manager.

(38) "Supervising health care provider" means the health care provider who has undertaken primary responsibility for an individual's health care.

(39) "Surrogate" means an individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident pursuant to T.C.A. § 68-11-1806.

(40) "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial disability or impairment. Traumatic brain injury includes open and closed head injuries and may result in seizures, and/or mild, moderate, or severe impairment in one (1) or more areas including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. Such term does not include brain injuries induced by birth trauma, but may include brain injuries caused by anoxia and other related causes, infectious disease not of a degenerative nature, brain tumor, toxic chemical or drug reaction.

(41) "Treating health care provider" means a health care provider directly or indirectly involved in providing health care to a resident at the time such care is needed by the resident.

(42) "Universal Do Not Resuscitate Order" means a written order that applies regardless of the treatment setting and that is signed by the patient's physician which states that in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

(43) "Ventilator dependent" means using an apparatus designed to control air that is breathed through it to either intermittently or continuously assist or control pulmonary ventilation, without which, the patient would not be able to breathe independently.

Authority: T.C.A. §§ 68-11-201 and 68-11-209.

1200-08-36-.02 Licensure and Renewal.

(1) Licensure. An applicant for an ACH license shall submit the following to the Board office:

(a) A completed application on a form approved by the Board;

(b) Nonrefundable application fee;

(c) The requirements contained in T.C.A. §68-11-206(a)(1) and (2);

(d) Demonstration of the ability to meet the financial obligations of the ACH with a financial statement prepared by a certified public accountant;

(e) A copy of a local business license (if one is required by the locality);

(f) A copy of any and all documents demonstrating the legal status of the business organization that owns the ACH. If the applicant is a corporation or a limited liability company the applicant must submit a certificate of good standing;

(g) Proof of liability insurance; and

(h) Any other documents or information requested by the Board.

(2) Before a license is granted, the applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

(3) Before a license is granted, the applicant shall submit to an inspection conducted by Department of Health inspectors to ensure compliance with all applicable laws and rules.

(4) If the Board determines that a license for an ACH shall not be granted, it shall notify the applicant. The decision of the Board shall be final.

(5) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an applicant has been denied a license or has had a license disciplined or has attempted to avoid the survey and review process.

(6) Renewal. ACH licenses expire annually on June 30 and must be renewed by that date.

(a) In order to successfully renew a license, a licensee shall submit a completed renewal application with the applicable fee to the Board office. Department inspectors will periodically inspect each ACH to determine its compliance with these rules and regulations. If the inspectors find deficiencies, the licensee shall submit an acceptable corrective action plan and shall remedy the deficiencies.

(b) Should the licensee fail to renew its license prior to the expiration date, yet within sixty (60) days after the expiration date, the licensee shall pay a late renewal penalty fee of one hundred dollars ($100.00) per month for each month or fraction of a month that renewal is late.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, the licensee shall reapply for a license by submitting the following to the Board office:

1. A completed application for licensure; and

2. The license fee provided in rule 1200-08-36-.03(1).

(d) Upon reapplication, the licensee shall submit to an inspection of the ACH by Department of Health inspectors.

(7) The Board shall issue a license only for the licensee and the location designated on the license application. If an ACH moves to a new location, it shall obtain a new license and submit to an inspection of the new building before admitting residents.

(8) A separate license shall be required for each ACH when more than one ACH is operated by an adult care home provider.

(9) Before a second license is granted to an adult care home provider the applicant shall:

(a) Operate a licensed ACH for a period of at least one (1) year;

(b) Submit to an annual licensure inspection by Department of Health inspectors;

(c) Have no findings of noncompliance resulting in penalties, suspensions or other disciplinary actions; and

(d) Submit a separate application to the Board.

(10) Before any additional licenses are granted to an adult care home provider the applicant shall:

(a) Operate two (2) licensed ACHs for a consecutive period of at least one (1) year;

(b) Submit both ACHs to an annual licensure inspection by Department of Health inspectors;

(c) Have no findings of noncompliance resulting in penalties, suspensions or other disciplinary actions at either ACH; and

(d) Submit a separate application to the Board.

(11) The Board may grant an exception to the one-at-a-time license requirement for Level 2 ACHs for nursing facilities; assisted care living facilities and providers who specialize in the delivery of ventilator services, or in the delivery of residential and/or medical services to persons who are ventilator dependent; and providers who specialize in the delivery of residential and/or rehabilitation services to persons with traumatic brain injury when such nursing facility, assisted care living facility or provider has demonstrated expertise in delivering the specialized services necessary to the specific population that would be served by the licensed ACH.

(12) Any admission in excess of five (5) residents is prohibited.

(13) Change of Ownership.

(a) A change of ownership occurs whenever the ultimate legal authority for the responsibility of the ACH's operation is transferred, including a change in the legal structure by which the ACH is owned and operated and/or ownership of the preceding or succeeding entity changes.

(b) A licensee shall notify the Board's administrative office of a proposed change of ownership at least thirty (30) days prior to its occurrence by submitting the following to the Board office:

1. A completed change of ownership application on a form approved by the Board which includes all information required by rule 1200-08-36-.02(1)(a);

2. Nonrefundable application fee;

3. Demonstration of ability to meet the financial obligations of the ACH with a financial statement prepared by a certified public accountant;

4. A copy of a local business license (if one is required by the locality);

5. A copy of any and all documents demonstrating the formation of the business organization that owns the ACH;

6. The bill of sale and/or closing documents indicating the transfer of operations of the business entity;

7. Comprehensive business plan for the first two (2) years of operation.

8. Proof of liability insurance; and

9. Any other documents or information requested by the Board.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the ACH's legal title;

2. Lease of the ACH's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the ACH;

4. The removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the ACH is owned by a limited partnership;

6. Merger of an ACH owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7. The consolidation of a corporate ACH owner with one or more corporations; or

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Merger of two (2) or more corporations where one (1) of the originally-licensed corporations survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government;

5. Corporate stock transfers or sales, even when a controlling interest.

6. Sale/lease-back agreements if the lease involves the ACH's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the same legal form as the former owner; or

7. Management agreements if the owner continues to retain ultimate authority for the operation of the ACH; however, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(14) Qualification and Training Requirements.

(a) Qualifications for a Level 2 ACH serving ventilator dependent residents.

1. A Level 2 adult care home provider serving ventilator dependent residents shall be licensed as a physician, nurse practitioner, registered nurse or respiratory therapist trained and experienced in the care of ventilator dependent residents or shall employ a resident manager who meets the qualifications specified in Rule 1200-08-36-.02(14)(a)2.

2. A Level 2 resident manager serving ventilator dependent residents shall be licensed as a physician, nurse practitioner, registered nurse or respiratory therapist trained and experienced in the care of ventilator dependent residents.

3. A substitute caregiver for a Level 2 ACH serving ventilator dependent residents shall be licensed as a physician, nurse practitioner, registered nurse or respiratory therapist trained and experienced in the care of ventilator dependent residents and shall demonstrate competency in caring for ventilator dependent residents.

(b) Qualifications for a Level 2 adult care home provider serving residents with traumatic brain injury.

1. A Level 2 adult care home provider serving residents with traumatic brain injury shall be licensed as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care of and rehabilitation of residents with traumatic brain injury, or shall employ a resident manager who meets the qualifications specified in Rule 1200-08-36-.02(14)(b)2.

2. A Level 2 resident manager serving residents with traumatic brain injury shall be licensed as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care of and rehabilitation of residents with traumatic brain injury.

3. A substitute caregiver for a Level 2 ACH serving residents with traumatic brain injury shall be licensed as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care and rehabilitation of residents with traumatic brain injury and shall demonstrate competency in caring for persons with traumatic brain injury.

(c) Training. The ACH provider is responsible for the supervision, training and overall conduct of resident managers, substitute caregivers and adult care home staff as it relates to their job performance and responsibilities. The ACH provider shall:

1. Train all staff to meet the routine and emergency needs of residents;

2. Orient all staff to the home including the location of any fire extinguishers; demonstration of evacuation procedures; location of residents' records; location of telephone numbers for the residents' physicians and other emergency contacts; location of medications and keys for medication cabinets; instructions

for caring for each resident and delegation by a registered nurse for nursing tasks if applicable.

3. Train resident managers, substitute caregivers, and staff on the health care tasks that can be administered through self administration.

(15) Continuing Education. All adult care home providers, resident managers and substitute caregivers shall complete annually twelve (12) hours of continuing education related to the following topics:

(a) Care of elderly persons;

(b) Care of persons with disabilities;

(c) Business operations of ACHs; and

(d) State rules and regulations for ACHs.

(16) The licensee shall immediately notify the Board's administrative office in the event of an absence or change of resident manager due to serious illness, incapacity, death or resignation of its named resident manager.

Authority: T.C.A. §§68-11-206 and 68-11-209.

1200-08-36-.03 Fees.

(1) Each ACH, except those operated by the United States of America or the State of Tennessee, making application for licensure under this chapter shall pay annually to the Board's administrative office, a fee in the amount of $1,080.00.

Authority: T.C.A. §§ 68-11-209 and 68-11-216.

1200-08-36-.04 Regulatory Standards.

(1) A Department of Health representative shall make an unannounced inspection of every ACH holding a license granted by the Board for its compliance with applicable state law and regulations within fifteen (15) months following the date of its last inspection, and as necessary, to protect the public's health, safety and welfare, with the first unannounced inspection to be completed prior to the first annual license renewal. An ACH must cooperate during Department of Health conducted inspections, including allowing entry at any hour and providing all required records.

(2) A Department of Health investigator, as the Board's representative, shall be permitted access to enter and inspect any ACH upon the receipt of an oral or written complaint, any time the Board has cause to believe that an ACH is operating without a license, or any time there exists a threat to the health, safety or welfare of any resident.

(3) A Department of Health investigator, as the Board's representative, shall investigate all allegations of complaints within timeframes established in applicable statutes or regulations, or as expeditiously as necessary to ensure the health, safety and welfare of ACH residents.

(a) The investigation findings shall be reported to the Board in an anonymous probable cause presentation.

(b) Once the Board determines the appropriate discipline, the adult care home provider shall be informed by written correspondence.

(c) The Board shall notify the complainant of the complaint's resolution.

(d) The Board shall maintain a file of reported complaints which includes the name of the adult care home provider against whom the complaint is filed, the date of the complaint is filed, the action taken by the Board on the complaint and date of action taken.

(4) Plan of Correction. When Department of Health inspectors find that an ACH has committed a violation of this chapter, including a violation(s) resulting in a suspension of admissions, the Department of Health, as the Board's representative, will issue a statement of deficiencies to the ACH. Within no more than ten (10) days of receipt of the statement of deficiencies, the ACH must return a plan of correction including 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.

(5) Either failure to submit a plan of correction in a timely manner or a finding by the Department of Health that the plan of correction is unacceptable may subject the ACH's license to disciplinary action.

(6) Upon a finding by the Board that an ACH has violated any provision of the Health Facilities and Resources Act, Part 2—Regulation of Health and Related Facilities (T.C.A. §§ 68-11-201, *et seq.*) or the rules promulgated pursuant thereto, action may be taken, upon proper notice to the licensee to deny, suspend, revoke or place the facility's license on probation in accordance with T.C.A. § 68-11-207(f).

(7) Civil Penalties. The Board may, in a lawful proceeding respecting licensing (as defined in the Uniform Administrative Procedures Act, T.C.A. § 4-5-101, et seq.), in addition to or in lieu of other lawful disciplinary action, assess civil penalties for serious violations of statutes, rules or orders resulting in endangerment to the health, safety and welfare of residents enforceable by the Board in accordance with the following schedule:

Violation	Penalty
Failure to have either a qualified adult care home provider, resident manager or substitute caregiver on duty 24 hours per day.	$500-$5000
Failure to maintain personal and medical records.	$0-$1000
Failure to provide appropriate medical and other professional services.	$0-$1000
Failure to provide appropriate non-medical living assistance services (assistance with ADLs).	$0-$1000
Failure to create and/or maintain a plan of care.	$0-$1000
Failure to conduct an admission assessment.	$0-$1000
Failure to abide by applicable fire safety regulations.	$0-$1000
Admitting residents over the licensed capacity.	$500-$1000

Admission or retention of inappropriately placed resident. T.C.A. § 68-11-213(i)(2). (Each resident shall constitute a separate violation.)	$0-$3000
Operating an ACH without required license. T.C.A. § 68-11-213(i)(1). (Each day of operation shall constitute a separate violation.)	$1000-$5000

In determining the amount of any civil penalty to be assessed pursuant to this rule the Board may consider such factors as the following:

(a) Willfulness of the violation.

(b) Repetitiveness of the violation.

(c) Magnitude of the risk of harm caused by the violation.

(8) Each violation of any statute, rule or order enforceable by the Board shall constitute a separate and distinct offense and may render the ACH committing the offense subject to a separate penalty for each violation.

(9) A licensee may appeal any disciplinary action taken against it in accordance with the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-101, et seq.

(10) 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.

Authority: T.C.A. §§ 68-11-207, 68-11-209, 68-11-210 and 68-11-213.

1200-08-36-.05 Administration.

(1) Each ACH shall meet the following staffing standards:

(a) The adult care home provider shall reside in the ACH or employ a resident manager to reside in the ACH.

(b) Each ACH provider may employ a resident manager who shall meet the education, experience and training requirements of a Level 2 ACH provider required by the Board.

(c) Each ACH shall designate in writing a substitute caregiver who shall meet the education, experience and training requirements required by the Board. The substitute caregiver shall reside in the ACH during such time the substitute caregiver oversees the day-to-day operation of the ACH.

(d) The ACH shall provide staffing coverage that is adequate to meet the needs of residents, both medical, and non-medical assistance with activities of daily living. Such staffing may include certified nurse assistants.

(e) ACH staff shall:

1. Be awake and available to meet the routine and emergency service needs of the residents twenty-four (24) hours a day;

2. Demonstrate documented competency in providing care for residents requiring specialized services;

3. Evacuate all residents within five (5) minutes or less;

4. Know how to operate the generator without assistance and be able to demonstrate its operation upon request.

5. Coordinate with primary care physicians, specialists, and other health care professionals as appropriate.

(f) In addition to meeting the requirements found in Rule 1200-08-36-.05(1)(e), Level 2 ACHs serving ventilator dependent patients shall have a physician, nurse practitioner, registered nurse, respiratory therapist or licensed practical nurse awake and on duty at all times.

(g) An ACH shall employ a qualified dietitian, full time, part-time, or on a consultant basis.

(h) An ACH shall not employ an individual listed on the Abuse Registry maintained by the Department of Health.

(2) Each ACH shall meet the following procedural standards:

(a) Policies and Procedures:

1. An ACH shall have a written statement of policies and procedures outlining the ACH's responsibilities to its residents, any obligations residents have to the facility, and methods by which residents may file grievances and complaints.

2. An ACH shall develop and implement an effective facility-wide performance improvement plan that addresses plans for improvement for self-identified deficiencies and documents the outcome of remedial action.

3. An ACH shall develop a written policy, plan or procedure concerning a subject and adhere to its provisions whenever required to do so by these rules. An ACH that violates its own policy established as required by these rules and regulations also violates the rules and regulations establishing the requirement.

4. An ACH shall develop a written policy and procedure governing smoking practices of residents.

(i) Residents of the facility are exempt from the smoking prohibition, with the exception of residents of Level 2 ACHs providing care to ventilator dependent residents.

(ii) Smoke from permissible smoking areas shall not infiltrate into areas where smoking is prohibited.

5. An ACH shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.

(b) Resident grievances:

1. The ACH provider shall inform each resident verbally and in writing of the resident's right to file a complaint with the state at any time, the process for filing a complaint, and contact information for filing a complaint. Verbal and written communication to the resident shall indicate, at a minimum that:

(i) Complaints regarding suspected abuse, neglect or exploitation shall be reported to Adult Protective Services;

(ii) Complaints regarding licensure shall be reported to the Board; and

(iii) All other complaints shall be reported to the appropriate state designated oversight entity.

2. The ACH provider shall advise residents of the availability of a long-term care ombudsman, and how to contact such ombudsman for assistance.

3. The ACH shall forward all complaints to the appropriate state oversight entity.

4. The ACH provider shall not prohibit or discourage the filing of complaints or use intimidation against any person for filing a complaint.

5. The ACH provider shall not retaliate against the resident or the person acting on behalf of the resident in any way.

6. Persons acting in good faith in filing a complaint are immune from any liability, civil or criminal.

(c) Allegations of abuse, neglect, misappropriation or exploitation: An ACH provider shall place a resident manager, substitute caregiver, or employee against whom an allegation of abuse, neglect, misappropriation or exploitation has been made on administrative leave of absence until the investigation conducted by the appropriate state entity is complete.

(d) An ACH shall keep a written up-to-date log of all residents that can be produced in the event of an emergency.

(e) An ACH shall allow pets in the ACH only when they are not a nuisance and do not pose a health hazard. Plans for pet management must be approved by the Department. Proof of rabies vaccinations and any other vaccinations that are required for the pet by a licensed veterinarian must be maintained on the premises.

(f) No person associated with the licensee or ACH shall act as a court-appointed guardian, trustee, or conservator for any resident of the ACH or any of such resident's property or funds, except as provided by rule 1200-08-36-.15(1)(i).

(3) An ACH shall post the following at the main public entrance or other equally prominent place in the ACH:

(a) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the Division of Adult Protective Services. The statement shall include the statewide toll-free number for the Division and the telephone number for the local district attorney's office. The posting shall be on a sign no smaller than eleven inches by seventeen inches (11" x 17"). (This same information shall be provided to each resident in writing upon admission to any facility);

(b) A statement that any person, regardless of age, who may be the victim of domestic violence may call the nationwide domestic violence hotline for immediate assistance, with that number printed in boldface type, and posted on a sign no smaller than eight and one-half inches (8½") in width and eleven inches (11") in height;

(c) A statement that the ACH has liability insurance, the identity of the primary insurance carrier, and if self-insured, the corporate entity responsible for payment of any claims. It shall be posted on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height;

(d) "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted at every entrance;

(e) A statement that any person who has experienced a problem with a specific licensed ACH may file a complaint with the Division of Health Care Facilities. The posting shall include the statewide toll-free telephone number for the Division's centralized complaint intake unit; and

(f) A copy of the resident's rights.

(4) Infection Control.

(a) An ACH shall ensure that neither a resident nor an employee of the ACH with a reportable communicable disease shall reside or work in the ACH unless the ACH has a written protocol approved by the Board's administrative office.

(b) An ACH shall have an annual influenza vaccination program which shall include at least:

1. The offer of influenza vaccination to all staff and independent practitioners or accept documented evidence of vaccination from another vaccine source or facility;

2. A signed declination statement on record from all who refuse the influenza vaccination for other than medical contraindications;

3. Education of all direct care personnel about the following:

(i) Flu vaccination;

(ii) Non-vaccine control measures; and

(iii) The diagnosis, transmission, and potential impact of influenza;

4. An annual evaluation of the influenza vaccination program and reasons for non-participation; and

5. A statement that the requirements to complete vaccinations or declination statements shall be suspended by the administrator in the event of a vaccine shortage.

(c) An ACH and its employees shall adopt and utilize standard precautions in accordance with guidelines established by the Centers for Disease Control and Prevention (CDC) for preventing transmission of infections, HIV, and communicable diseases, including adherence to a hand hygiene program which shall include:

1. Use of alcohol-based hand rubs or use of non-antimicrobial or antimicrobial soap and water before and after each resident contact if hands are not visibly soiled;

2. Use of gloves during each resident contact with blood or where other potentially infectious materials, mucous membranes, and non-intact skin could occur and gloves shall be changed before and after each resident contact;

3. Use of either a non-antimicrobial soap and water or an antimicrobial soap and water for visibly soiled hands; and

4. Health care worker education programs which may include:

(i) Types of resident care activities that can result in hand contamination;

(ii) Advantages and disadvantages of various methods used to clean hands;

(iii) Potential risks of health care workers' colonization or infection caused by organisms acquired from residents; and

(iv) Morbidity, mortality, and costs associated with health care associated infections.

(d) An ACH shall develop and implement a system for measuring improvements in adherence to the hand hygiene program and influenza vaccination program.

(5) An ACH shall ensure that no person will be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the provision of any care or service of the ACH on the grounds of race, color, national origin, or handicap. An ACH shall protect the civil rights of residents under the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.

Authority: T.C.A. §§ 39-17-1804, 68-11-207, 68-11-209, 68-11-268, 68-11-270 and 71-6-121.

1200-08-36-.06 Services Provided.

(1) Medical Services. Each ACH shall provide twenty-four (24) hour nursing services furnished or supervised by the adult care home provider, resident manager or substitute caregiver. Licensed registered nurses and licensed practical nurses may provide all prescribed medical services that are within the scope of the nurse's professional license.

(2) Medical services in an ACH shall be provided by:

(a) Appropriately licensed staff of an ACH;

(b) Appropriately licensed or qualified contractors of an ACH;

(c) A licensed home care organization; or

(d) Another appropriately licensed entity.

(3) Standards for Medication Administration. An ACH shall:

(a) Ensure that all drugs and biologicals shall be administered by a licensed professional operating within the scope of the professional license and according to the resident's plan of care; and

(b) Ensure that all medications are kept in a locked, central location, separate from medications of the staff.

(c) Self-administration of Medication. Residents must have a physician or nurse practitioner's written order of approval to self-medicate. Residents able to handle their own medical regimen may keep medications in their own room in a locked storage container.

(d) Injections. Subcutaneous, intramuscular, and intravenous injections may be self-administered by the resident or by a licensed professional operating within the scope of the professional license.

(4) An ACH shall dispose of medications as follows:

(a) Upon discharge or death of a resident, unused medications shall be released to the resident, family member, or legal representative unless specifically prohibited by the attending physician or other authorized healthcare provider.

(b) Any scheduled drug that is misbranded, expired, deteriorated, or not kept under proper conditions or in containers with illegible or missing labels shall be returned to the pharmacy within five (5) working days after discovery for proper disposition by a licensed pharmacist.

(c) Any non-scheduled drug or device that is misbranded, expired, deteriorated, or not kept under proper conditions or in containers with illegible or missing labels shall be properly disposed of at the ACH in the presence of another licensed or certified professional.

(5) An ACH shall provide personal services as follows:

(a) Each ACH shall provide each resident with at least the following personal services:

1. Protective care;

2. Safety when in the ACH;

3. Daily awareness of the individual's whereabouts;

4. The ability and readiness to intervene if crises arise;

5. Room and board; and

6. Non-medical living assistance with activities of daily living.

(b) Recreational Services. An ACH shall provide to residents a daily regime of activities commensurate with the resident's needs, as identified through the assessment developed by the facility and specified in the resident's plan of care.

(c) Laundry services. An ACH shall:

1. Provide arrangements for laundry of ACH linens and residents' clothing;

2. Provide appropriate separate storage areas for soiled linens and residents' clothing; and

3. Maintain clean linens in sufficient quantity to provide for the needs of the residents. Linens shall be changed whenever necessary.

(d) Dietary services.

1. An adult care home provider shall provide three (3) nutritionally balanced meals per day or shall make arrangements for meals on an as needed basis. The food must be adapted to the habits, preferences and physical abilities of the residents. Additional nourishment and/or snacks shall be provided to residents with special dietary needs or upon request.

2. There shall be no more than fourteen (14) hours between the evening and morning meals.

3. All food served to the residents shall be of good quality and variety, sufficient quantity, attractive and at safe temperatures. Prepared foods shall be kept hot (140° F or above) or cold (41° F or less) as appropriate.

4. Meal planning and preparation shall take into consideration any special dietary needs of the resident, as prescribed by the resident's physician.

5. An ACH shall designate a person responsible for the food service, including the purchasing of adequate food supplies and the maintenance of sanitary practices in food storage, preparation and distribution. Sufficient arrangements or employees shall be maintained to cook and serve the food.

6. An ACH may contract with an outside food management company if the company has a dietitian who serves the ACH on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards

specified in this section while providing for constant liaison with the ACH for recommendations on dietetic policies affecting resident treatment.

7. An ACH shall have a current therapeutic diet manual approved by a dietitian readily available to all ACH personnel.

8. Menus shall be planned one week in advance and posted in a location accessible to residents and families.

9. An ACH shall:

(i) Provide sufficient food provision capabilities and dining space;

(ii) Maintain and properly store a forty-eight (48) hour food supply at all times;

(iii) Provide appropriate, properly-repaired equipment and utensils for cooking and serving food to serve all residents;

(iv) Maintain a clean and sanitary kitchen; and

(v) Ensure employees shall wash and sanitize equipment, utensils and dishes after each use.

Authority: T.C.A. §§ 68-11-206, 68-11-209 and 68-11-270.

1200-08-25-.07 Admissions, Discharges, and Transfers.

(1) Admissions.

(a) An ACH may only admit and continue to care for residents requiring specialized services.

(b) A Level 2 ACH may provide care to both ventilator dependent patients and patient with traumatic brain injury. In the event a resident with traumatic brain injury is also ventilator dependent, the resident may only be served by a Level 2 ACH meeting the requirements for ventilator dependent patients.

(c) ACHs may serve up to five (5) elderly or disabled adults who are unrelated to the adult care home provider by blood or marriage.

(d) An ACH provider may choose to serve one (1) or more elderly or disabled adult members of their own family as long as the adult care home provider serves at least two (2) additional elderly or disabled adults unrelated to the adult care home provider by blood or marriage. In no event shall an adult care home provider serve more than five (5) elderly or disabled residents in the licensed ACH.

(e) An ACH provider may permit members of the adult care home provider's or resident manager's family, who are not elderly or disabled, to reside in the ACH as long as it does not interfere with the care of the residents. For purposes of this rule, family member means spouse and children.

(f) An ACH may not admit or retain a resident who cannot be evacuated within five (5) minutes.

(g) An ACH shall upon admission of a resident:

1. Be able to identify at the time those residents whose needs for services are consistent with these rules and regulations, and those residents who should be transferred to a more appropriate level of care.

2. Document plans and procedures to show evacuation of the resident within five (5) minutes.

3. Provide to each resident a written admission agreement signed and dated by the ACH provider and the resident or the resident's family member or representative and presented both verbally and in writing. The admission agreement shall be reviewed and updated as necessary as a part of the residential plan of care review process and contain the following:

   (i) A copy of the resident rights for the resident's review and signature;

   (ii) A copy of house rules and the rate schedules, including any resident liability for which the resident will be responsible;

   (iii) An accurate written statement providing that the adult care home provider shall give thirty (30) days written notice to the resident prior to making any changes in the rates;

   (iv) The consequences for non-payment of resident liability which includes involuntary discharge from the ACH;

   (v) An accurate written statement regarding services which will be provided residents upon admission;

   (vi) Procedures for handling the transfer or discharge of residents that does not violate the residents' rights under the law or these rules.

4. Disclose in writing to the resident or to the resident's legal representative, the identity of the ACH's primary liability insurance carrier. If the ACH is self-insured, its statement shall reflect that fact and indicate the corporate entity responsible for payment of any claims.

5. Document evidence of annual vaccination against influenza for each resident, in accordance with the recommendation of the Advisory Committee on Immunization Practices of the Centers for Disease Control most recent to the time of vaccine, unless such vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccination for all residents accepting the vaccine shall be completed by November 30 of each year or within ten (10) days of the vaccine becoming available. Residents admitted after this date during the flu season and up to February 1, shall as medically appropriate, receive influenza vaccination prior to or on admission unless refused by the resident.

6. Document evidence of vaccination against pneumococcal disease for all residents who are sixty-five (65) years of age or older, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control at the time of vaccination, unless such vaccination is medically contraindicated or the resident has refused the offer of vaccine. The facility shall provide or arrange for the pneumococcal vaccination of residents who have not received this immunization prior to or on admission unless the resident refuses offer of the vaccine.

(2) Discharges and Transfers.

   (a) Residents may only be moved, transferred or discharged from an ACH for the following reasons:

      1. Medical reasons. The resident has a medical or nursing condition that exceeds the level of health services the facility provides;

2. Welfare of the resident or of other residents. This includes, but is not limited to the following: The ACH is unable to accomplish timely evacuation of the resident in the event of an emergency; the resident exhibits behavior that poses an imminent danger to self or others; the resident engages in behavior or actions that repeatedly and substantially interfere with the rights, health or safety of residents or others; or the resident engages in illegal drug use, or commits a criminal act that causes potential harm to the resident or others;

3. Nonpayment of patient liability; or

4. Closing or selling the facility.

(b) An ACH resident shall be discharged and transferred to another appropriate setting such as home, a hospital, or a nursing home when the resident, the resident's legal representative, or the resident's treating physician determines that the ACH cannot safely and effectively meet the resident's needs, including medical services.

(c) The Board may require that an ACH resident be discharged or transferred to another level of care if it determines that the resident's needs, including medical services, cannot be safely and effectively met in the ACH.

(d) In the event of a discharge or transfer due to medical reasons, for the welfare of the resident or for the welfare of other residents or due to nonpayment of patient liability, the adult care home provider shall give the resident written notice at least thirty (30) days prior to the proposed transfer or discharge.

(e) In the event of a discharge or transfer due to medical reasons, the welfare of the resident, or for the welfare of other residents, the ACH provider shall work with the Board, or for ACH services reimbursed through the TennCare CHOICES program, the member's care coordinator to develop a transition plan in order to maintain continuity of care for the resident and to minimize the impact of the transition. The ACH provider shall assist the resident in locating an alternate appropriate setting.

(f) In the case of a medical emergency that requires immediate action, the ACH provider shall give the resident written notice as soon as possible under the circumstances.

(g) In the event of discharge or transfer due to selling the facility to another ACH provider, the current ACH provider shall develop a transition plan for all residents to facilitate the transition to a new ACH and shall maintain its license and operation of the facility until the point in time the new ACH's license is approved.

(h) In the event of discharge or transfer due to the closing of the facility, the ACH provider shall provide ninety (90) day advance notice to residents and shall work with the board, or for ACH services reimbursed through the TennCare CHOICES program, the MCO as appropriate, to develop a transition plan to maintain continuity of care for the residents and to minimize the impact of transition. The ACH shall assist each resident in locating an alternative placement.

Authority: T.C.A. §§ 68-11-201, 68-11-202, 68-11-206, 68-11-209 and 68-11-270.

1200-08-36-.08 Personal and Health Care Needs.

(1) An ACH provider shall conduct an assessment of a prospective resident before admitting the resident. The assessment shall include:

(a) Diagnoses;

(b) Medications;

(c) Personal care needs;

(d) Nursing care needs;

(e) Nutritional needs;

(f) Activities; and

(g) Lifestyle preferences.

(2) An ACH provider shall be able to meet the needs of a resident, including personal and health care needs and night care needs, before admitting the resident.

(3) Plan of Care.

(a) The ACH shall develop a resident plan of care for the day-to-day delivery of residential services, including personal and health care needs and night care needs with input and participation from the resident or the resident's legal representative, the resident's family, and the resident's treating physician, or other licensed health care professionals or entity delivering patient services within five (5) days of admission. If the ACH services are reimbursed through the TennCare CHOICES program, or any successor thereto, the plan of care shall be developed in collaboration with the member's care coordinator.

(b) The plan of care shall include, at a minimum the following elements:

1. Health and functional status, including cognitive/behavioral health status and any ADL deficiencies;

2. Resident needs and preferences, personal and health care needs, and night care needs;

3. Significant health conditions and required course of treatment for management of chronic conditions;

4. Medication regimen;

5. Dietary needs; and

6. Evacuation plans.

(c) The plan of care shall be reviewed quarterly by the above appropriate individuals and shall be updated at a minimum on an annual basis and more frequently as the resident's health status changes and as circumstances warrant.

(4) Ventilator dependent residents. Level 2 adult care home providers serving ventilator-dependent patients shall:

(a) Have an audible, redundant alarm system located outside of resident sleeping rooms to alert the ACH provider or resident manager of a resident disconnection or ventilator failure;

(b) Ensure that all ventilators are equipped with internal battery backup systems; and

(c) Have a functioning backup ventilator available at all times.

Authority: T.C.A. §§ 68-11-206, 68-11-209 and 68-11-270.

(1) An ACH shall develop and maintain an organized record for each resident and ensure that all entries shall be written legibly in ink, typed, or kept electronically, and signed, and dated.

(2) Personal record. An ACH shall ensure that the resident's personal record includes at a minimum the following:

(a) Name, social security number, veteran status and number, marital status, age, sex, any health insurance provider and number, including Medicare and/or Medicaid number, and photograph of the resident;

(b) Name, address and telephone number of next of kin, legal representative (if applicable), and any other person identified by the resident to contact on the resident's behalf;

(c) Name and address of the resident's preferred physician, hospital, pharmacist and nursing home, and any other instructions from the resident to be followed in case of emergency;

(d) Record of all monies and other valuables entrusted to the ACH for safekeeping, with appropriate updates;

(e) Date of admission, transfer, discharge and any new forwarding address;

(f) A copy of the admission agreement that is signed and dated by the resident;

(g) A copy of any advance directives, DNR Order, Durable Power of Attorney, or Living Will, when applicable, to be made available upon request; and

(h) A record that the resident has received a copy of the ACH's resident's rights and procedures policy.

(3) Medical record. An ACH shall ensure that its staff develops and maintains a medical record for each resident who requires health care services at the ACH regardless of whether such services are rendered by the ACH or by resident self-direction, which shall include at a minimum:

(a) Medical history;

(b) Consultation by physicians or other authorized healthcare providers;

(c) Orders and recommendations for all medication, medical and other care, services, procedures, and diet from physicians or other authorized healthcare providers, which shall be completed prior to, or at the time of admission, and subsequently updated, as warranted. Verbal orders received shall include the time of receipt of the order, description of the order, and identification of the individual receiving the order;

(d) Medication Administration Record (MAR). A current, written medication administration record must be kept for each resident and must:

1. List the name of all medications administered by licensed staff, including over-the-counter medications and prescribed dietary supplements.

2. Identify the dosage, route (if other than oral) and the date and time each medication or supplement is to be given.

3. Identify any treatments and therapies given by licensed staff. The record must indicate the type of treatment or therapy and the time the procedure is to be performed.

4. Immediately be initialed by the licensed staff administering the medication, treatment or therapy as it is completed. Each medication administration record must contain a legible signature that identifies each set of initials.

5. Document changes and discontinued orders immediately, showing the date of the change or discontinued order.

6. Document missed or refused medications, treatments or therapies.

(e) Procedures followed in the event a medication error is made;

(f) Special procedures and preventive measures performed;

(g) Notes, including, but not limited to, observation notes, progress notes, and nursing notes;

(h) Listing of current vaccinations;

(i) Time and circumstances of discharge or transfer, including condition at discharge or transfer, or death;

(j) Provisions of routine and emergency medical care, to include the name and telephone number of the resident's physician, plan for payment, and plan for securing medications; and

(k) Special information, e.g., allergies, etc.

(4) Personal information shall be confidential and shall not be disclosed, except to the resident, the Department and others with written authorization from the resident. Records shall be retained for three (3) years after the resident has been transferred or discharged.

Authority: T.C.A. § 68-11-209.

Rule 1200-08-36-.10 Facility Standards.

(1) General.

(a) ACHs shall be operated and maintained to ensure a homelike environment.

(b) Hardware for all exit and interior doors must have simple hardware that cannot be locked against exit and must have an obvious method of operation. Hasps, sliding bolts, hooks and eyes, and double key deadbolts are not permitted.

(c) Sleeping rooms for all household occupants must have been constructed as a bedroom when the home was built or remodeled; be finished with wall or partitions of standard construction which go from floor to ceiling; have a door which opens directly to a hallway or common use room without passage through another bedroom or common room; be adequately ventilated, heated and lighted, with at least one window that opens which meets fire safety regulations.

(d) ACH providers, resident managers, staff, or family members shall not sleep in areas designated as living areas or common use areas.

(2) Resident sleeping rooms.

(a) Each resident shall have his or her own sleeping room, not to be shared with any other resident or staff member.

(b) Each resident sleeping room must be a minimum of one hundred and twenty (120) square feet or larger if necessary to accommodate the necessary equipment and supplies for the care and services needed for residents with ventilator equipment.

(c) Each resident sleeping room must have at least one window or exterior door that will readily open from the inside without special tools and which provides a clear opening of not less than eight hundred twenty one (821) square inches (5.7 square feet), with the least dimensions not less than twenty two (22) inches in height or twenty (20) inches in width. Sill height must not be more than forty-four (44) inches from the floor level or there must be approved steps or other aids to the window exit.

(d) Each resident sleeping room must be in close enough proximity to the ACH provider, ACH manager or caregiver in charge to alert him or her to nighttime needs or emergencies or each resident sleeping room must be equipped with a call bell or intercom that will enable residents to summon staff's assistance when needed. The summons must be audible in all areas of the ACH. Intercoms must not violate the resident's right to privacy and must have the capability of being turned off by the resident or at the resident's request.

(e) Each resident sleeping room must be equipped with an individual bed consisting of a mattress and springs, in good condition. Each bed must have clean bedding in good condition consisting of bedspread, mattress pad, two sheets, a pillow, a pillowcase and blankets adequate for weather.

(f) Each resident sleeping room must have a private dresser and closet space sufficient for the resident's clothing and personal effects including hygiene and grooming supplies. Residents must be allowed to keep and use reasonable amounts of personal belongings.

(g) Drapes or shades for windows must be provided and must be in good condition and allow privacy for residents.

(h) ACH providers shall not place residents who are unable to walk without assistance or who are incapable of independent evacuation in a basement, split-level, second story or other area that does not have an exit at the ground level.

(i) Each resident sleeping room must have a second safe means of exit. A second safe means of exit means that there must be two ways to safely exit the ACH from a resident sleeping room. ACH providers with resident sleeping rooms above the first floor shall be required to demonstrate an evacuation drill from that resident sleeping room, using the secondary exit, at the time of licensure, renewal, or inspection.

(3) Common use areas.

(a) Common use areas must be accessible to all residents and may include the dining room and the living room.

(b) Each common use area shall have at a minimum one hundred fifty (150) square feet of common living space and sufficient furniture to accommodate recreational and social needs.

(c) Common use areas must not be located in an unfinished basement or a garage.

(4) Bathrooms.

(a) Bathrooms must provide individual privacy with a door which opens to a hall or common use room; a mirror; a window that opens or other means of ventilation; and a window covering for privacy. No person shall have to walk through another person's sleeping room to get to a bathroom.

(b) Bathrooms must be clean and free of objectionable odors.

(c) Bathrooms must have bathtubs, showers, toilets and sinks in good repair.

(d) There must be at least one toilet, one sink and one bathtub or shower for every three (3) household occupants.

(e) Non-slip floor surfaces must be provided in bathtubs and showers.

(f) Bathrooms must have grab bars for each toilet, bathtub and shower.

(g) Each bathroom shall have an adequate supply of toilet paper and soap.

(h) Each bathroom shall have appropriate racks or hooks for drying bath linens.

(i) Each bathroom shall have hand towels or roller-dispensed hand towels or paper towels.

(j) The adult care home provider shall supply residents with clean, individual towels and washcloths.

(5) Each ACH shall provide the following:

(a) Current newspapers, magazines or other reading materials;

(b) A telephone accessible to all residents to make and receive personal telephone calls twenty-four (24) hours per day; and

(c) A suitable and comfortable furnished area for activities and family visits. Furnishings shall include a calendar and a functioning television set, radio and clock.

Authority: T.C.A. §§ 68-11-202 and 68-11-209.

Rule 1200-08-36-.11 Building Standards.

(1) An ACH shall construct, arrange, and maintain the condition of the physical plant and the overall ACH living facility environment in such a manner that the safety and well-being of residents are assured.

(2) An ACH shall be of sound construction with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread of finished materials must not exceed Class III (76-200) and smoke density must not be greater than four hundred and fifty (450). If more than ten percent (10%) of combined wall and ceiling areas in a sleeping room or exit way is composed of readily combustible material, such material must be treated with an approved flame retardant coating unless the facility is supplied with an approved automatic sprinkler system.

(3) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the Department. All new facilities shall conform to the 2006 edition of the International Building Code, the 2006 edition of the National Fire Protection Code (NFPA), the 2005 edition of National Electrical Code, and the 1999 edition of the U.S Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the Americans with Disabilities Act (A.D.A.), as revised in 2004, and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new and existing facilities. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.

(4) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.

(5) The licensed contractor shall perform all new construction and renovations to ACHs, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the

specific requirements of these regulations governing new construction in ACHs, including the submission of phased construction plans and the final drawings and the specifications to each.

(6) No new ACH shall be constructed, nor shall major alterations be made to an existing ACH without prior approval of the Department, and unless in accordance with plans and specifications approved in advance by the Department. Before any new ACH is licensed or before any alteration or expansion of a licensed ACH can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the Department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.

(7) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.

(8) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot (1/8" = 1'), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the Department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the Department requires.

(a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the Department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The Department must grant final approval before the project proceeds beyond foundation work.

(b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.

(9) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.

(10) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.

(11) Architectural drawings shall include, where applicable:

(a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;

(b) Floor plan(s) showing scale drawings of typical and special rooms indicating all fixed and movable equipment and major items of furniture. Floor plan(s) shall indicate the size of each room and shall differentiate resident sleeping rooms from caregiver sleeping rooms

(c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;

(d) The elevation of each facade;

(e) The typical sections throughout the building;

(f) The schedule of finishes;

(g) The schedule of doors and windows including the location of all exits on each level of the ACH;

(h) Roof plans;

(i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators;

(j) Code analysis;

(k) The location of wheelchair ramps, if applicable; and

(l) The location of fire extinguishers and smoke alarms.

(12) Structural drawings shall include, where applicable:

(a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;

(b) Schedules of beams, girders and columns; and

(c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.

(13) Mechanical drawings shall include, where applicable:

(a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;

(b) Water supply, sewerage and HVAC piping systems;

(c) Pressure relationships shall be shown on all floor plans;

(d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;

(e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and

(f) Color coding to show clearly supply, return and exhaust systems.

(14) Electrical drawings shall include, where applicable:

(a) A Seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;

(b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;

(c) The electrical system shall comply with applicable codes, and shall include:

1. The fire alarm system; and

2. The emergency power system including automatic services as defined by the codes.

(d) Color coding to show all items on emergency power.

(15) Sprinkler drawings shall include, where applicable:

(a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;

(b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and

(c) Show "Point of Service" where water is used exclusively for fire protection purposes.

(16) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension, to the Department demonstrating that all applicable codes have been met and the Department has granted necessary approval.

(a) Before the ACH is used, the Tennessee Department of Environment and Conservation shall approve the water supply system.

(b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.

(c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105° F and 115° F.

(17) The licensed contractor shall ensure through the submission of plans and specifications that in each ACH a negative air pressure shall be maintained in the soiled utility areas, toilet rooms, janitor's closets, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.

(18) With the submission of plans the facility shall specify the evacuation capabilities of the residents as defined in the National Fire Protection Code (NFPA). This declaration will determine the design and construction requirements of the facility.

(19) The Department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The Department may modify the distribution of such review at its discretion.

(20) In the event submitted materials do not appear to satisfactorily comply with Rule 1200-08-36-.11(3), the Department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

(21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.

(22) If construction begins within one hundred eighty (180) days of the date of Department approval, the Department's written notification of satisfactory review constitutes compliance with Rule 1200-08-36-.11(21). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.

(23) Prior to final inspection, the licensed contractor shall submit a CD Rom disc, in TIF or DMG format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., to the Department.

(24) The Department requires the following alarms that shall be monitored twenty-four (24) hours per day:

(a) Fire alarms; and

(b) Generators (if applicable).

(25) Manufactured Homes. If a manufactured home unit is to be used as the adult care home residence, such unit must:

(a) Be constructed after 1976;

(b) Be designed for use as a home rather than a travel trailer;

(c) Have a manufacturer's label permanently affixed on the unit evidencing that the unit meets the requirements of the Department of Housing and Urban Development (HUD). The required label shall read as follows: "As evidenced by this label No. ABC00001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. See date plate." If such label is not evident and the licensee believes he/she meets the required specifications, the licensee must take the necessary steps to secure and provide verification of compliance from the manufacturer.

Authority: T.C.A. §§ 68-11-202 and 68-11-209.

1200-08-36-.12 Life Safety.

(1) The Department will consider any ACH that complies with the required applicable building and fire safety regulations at the time the Board adopts new codes or regulations, so long as such compliance is maintained (either with or without waivers of specific provisions), to be in compliance with the requirements of the new codes or regulations.

(2) A Level 2 ACH providing care to ventilator dependent patients shall be fully sprinklered.

(3) An ACH shall ensure fire protection for residents by doing at least the following:

(a) Eliminate fire hazards;

(b) Install necessary fire fighting equipment;

(c) Adopt a written fire control plan;

(d) Ensure that each resident sleeping unit shall have a door that opens directly to the outside or a corridor which leads directly to an exit door and must always be capable of being unlocked by the resident;

(e) Ensure that louvers shall not be present in doors to residents' sleeping units;

(f) Keep corridors and exit doors clear of equipment, furniture and other obstacles at all times. Passage to exit doors leading to a safe area shall be clear at all times;

(g) Prohibit use of combustible finishes and furnishings;

(h) Prohibit open flame and portable space heaters;

(i) Prohibit cooking appliances other than microwave ovens in resident sleeping units;

(j) Ensure that all heaters shall be guarded and spaced to prevent ignition of combustible material and accidental burns. The guard shall not have a surface temperature greater than 120°F;

(k) Allow use of fireplaces and/or fireplace inserts only if the ACH ensures that they have guards or screens which are secured in place;

(l) Inspect and clean fireplaces and chimneys annually and maintain documentation that such inspection has occurred;

(m) Ensure that there are electrically-operated smoke detectors with battery back-up power operating at all times in, at least, all resident sleeping rooms, hallways, access areas that adjoin sleeping rooms, common areas, kitchens, laundry room, and any other hazardous areas. In multi-level homes, smoke detectors must be installed at the top of stairways; and

(n) Provide and mount fire extinguishers, complying with NFPA 10, so they are accessible to all residents in each room of the ACH, including basements. Extinguishers in the kitchen and laundries shall be a minimum of 2-A: 10-BC and an extinguisher with a rating of 20-A shall be adjacent to every hazardous area. The minimum travel distance shall not exceed fifty (50) feet between the extinguishers. All fire extinguishers shall be checked at least once a year by a qualified entity.

(4) An ACH located more than five (5) miles from the nearest fire station or an ACH constructed of materials other than wood or concrete block shall have a complete fire alarm system meeting the requirements of the National Fire Prevention Association (NFPA) 72 with approved automatic reporting to the local jurisdiction providing fire protection.

(5) An ACH shall conduct fire drills in accordance with the following:

(a) Fire drills shall be held for each ACH work shift in each separate ACH building at least quarterly;

(b) There shall be one (1) fire drill per quarter during sleeping hours;

(c) An ACH shall prepare a written report documenting the evaluation of each drill that includes the action that is recommended or taken to correct any deficiencies found; and,

(d) An ACH shall maintain records that document and evaluate these drills for at least three (3) years.

(6) An ACH shall take the following action should a fire occur:

(a) An ACH shall report all fires which result in a response by the local fire Department to the Department within seven (7) days of its occurrence.

(b) An ACH's report to the Department shall contain the following:

1. Sufficient information to ascertain the nature and location of the fire;

2. Sufficient information to ascertain the probable cause of the fire; and

3. A list and description of any injuries to any person or persons as a result of the fire.

4. An ACH may omit the name(s) of resident(s) and parties involved in initial reports. Should the Department later find the identities of such persons to be necessary to an investigation, the ACH shall provide such information.

(7) An ACH shall take the following precautions regarding electrical equipment to ensure the safety of residents:

(a) Provide lighted corridors at all times, to a minimum of one (1) foot candle;

(b) Provide general and night lighting for each resident and equip night lighting with emergency power;

(c) Maintain all electrical equipment in good repair and safe operating condition;

(d) Ensure that electrical cords shall not run under rugs or carpets;

(e) Ensure that electrical systems shall not be overloaded;

(f) Ensure that power strips are equipped with circuit breakers; and

(g) Prohibit use of extension cords.

(8) If an ACH allows residents to smoke, it shall ensure the following:

(a) Permit smoking and smoking materials only in designated areas under supervision;

(b) Provide ashtrays wherever smoking is permitted;

(c) Smoking in bed is prohibited;

(d) Written policies and procedures for smoking within the ACH shall designate a room or rooms to be used exclusively for residents who smoke. The designated smoking room or rooms shall not be the dining room, the activity room, or an individual resident sleeping unit, and;

(e) Post no smoking signs in areas where oxygen is used or stored.

(9) An ACH shall not allow trash and other combustible waste to accumulate within and around the ACH. It shall store trash in appropriate containers with tight-fitting lids. An ACH shall furnish resident sleeping units with an UL approved trash container.

(10) An ACH shall ensure that:

(a) The ACH maintains all safety equipment in good repair and in a safe operating condition;

(b) The ACH stores janitorial supplies away from the kitchen, food storage area, dining area and other resident accessible areas;

(c) The ACH stores flammable liquids in approved containers and away from the facility living areas; and

(d) The ACH cleans floor and dryer vents as frequently as needed to prevent accumulation of lint, soil and dirt.

(11) An ACH shall post emergency telephone numbers near a telephone accessible to the residents.

(12) An ACH shall maintain its physical environment in a safe, clean and sanitary manner by doing at least the following:

(a) Prohibit any condition on the ACH site conducive to the harboring or breeding of insects, rodents or other vermin;

(b) Properly identify chemical substances of a poisonous nature used to control or eliminate vermin and store such substances away from food and medications;

(c) Ensure that the building shall not become overcrowded with a combination of the ACH's residents and other occupants;

(d) Maintain all residents' clothing in good repair and ensure that it is suitable for the use of elderly persons;

(e) Maintain the building and its heating, cooling, plumbing and electrical systems in good repair and in clean condition at all times; and

(f) Maintain temperatures in resident sleeping units and common areas at no less than 65° F and no more than 85° F.

Authority: T.C.A. §§ 68-11-202 and 68-11-209.

1200-08-36-.13 Infectious and Hazardous Waste.

(1) An ACH must develop, maintain and implement written policies and procedures for the definition and handling of its infectious waste. These policies and procedures must comply with the standards of this rule.

(2) The following waste shall be considered to be infectious waste:

(a) Waste contaminated by residents who are isolated due to communicable disease, as provided in the U.S. Centers for Disease Control "Guidelines for Isolation Precautions in Hospitals";

(b) Cultures and stocks of infectious agents including specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;

(c) Waste human blood and blood products such as serum, plasma, and other blood components;

(d) Pathological waste, such as tissues, organs, body parts, and body fluids that are removed during surgery and autopsy;

(e) All discarded sharps (e.g., 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; and

(f) Other waste determined to be infectious by the ACH in its written policy.

(3) Infectious 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 ACH.

(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 leak proof, rigid, and puncture-resistant containers which must then 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 (e.g., chemical, radiological) must also be conspicuously identified to clearly indicate those additional hazards.

(c) Reusable containers for 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 preservation of the integrity of the packaging, including the use of secondary containment where necessary. Plastic bags of 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.

(a) Waste must be stored in a manner and location which affords protection from animals, precipitation, wind, and 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.

(b) Pathological waste must be promptly treated, disposed of, or placed into refrigerated storage.

(7) In the event of spills, ruptured packaging, or other incidents where there is a loss of containment of waste, the ACH must ensure that proper actions are immediately taken to:

(a) Isolate the area from the public and all except essential personnel;

(b) To the extent practicable, repackage all spilled waste and contaminated debris in accordance with the requirements of paragraph (4) of this rule;

(c) Sanitize all contaminated equipment and surfaces according to written policies and procedures which specify how this will be done appropriately; and

(d) Complete an incident report and maintain a copy on file.

(8) Except as provided otherwise in this rule a facility must treat or dispose of infectious waste by one or more of the methods specified in this paragraph.

(a) An ACH may treat infectious 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 infectious waste treated in such a device is rendered non-infectious 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 disinfection cycle must contain appropriate indicators to assure that conditions were met for proper sterilization or disinfection of materials included in the cycle, and appropriate records kept. Proper operation of such devices must be verified at least monthly, and records of the monthly verifications shall be available for review. Waste that contains toxic chemicals that would be volatilized by steam must not be treated in steam sterilizers. Infectious waste that has been rendered to carbonized or mineralized ash shall be deemed non-infectious. 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) An ACH may discharge liquid or semi-liquid infectious 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) An ACH 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 located within Tennessee, the ACH 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 within another state, the ACH must notify in writing all public health agencies with jurisdiction that the location is being used for management of the ACH'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) Human anatomical remains which are transferred to a mortician for cremation or burial shall be exempt from the requirements of this rule.

(11) All garbage, trash and other non-infectious waste shall be stored and disposed of in a manner that must 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.

Authority: T.C.A. § 68-11-209.

1200-08-36-.14 Reports.

(1) The ACH shall report all incidents of abuse, neglect and misappropriation to the Department of Health in accordance with T.C.A. § 68-11-211.

(2) The ACH shall report the following incidents in accordance with T.C.A. § 68-11-211.

(a) Strike by staff at the facility;

(b) External disasters impacting the facility;

(c) Disruption of any service vital to the continued safe operation of the ACH or to the health and safety of its patients and personnel; and

(d) Fires at the ACH that disrupt the provision of patient care services or cause harm to the patients or staff, or that are reported by the facility to any entity, including but not limited to a fire department charged with preventing fires.

Authority: T.C.A. §§ 68-11-209 and 68-11-211.

1200-08-36-.15 Resident Rights.

(1) An ACH shall ensure at least the following rights for each resident and shall not require a resident to waive any of the delineated rights:

(a) To be afforded privacy in treatment and personal care;

(b) To be free from mental and physical abuse. Should this right be violated, the ACH shall notify the Department and the Tennessee Department of Human Services, Adult Protective Services at 1-888-277-8366;

(c) To refuse treatment. An ACH must inform the resident of the consequences of that decision. The ACH must report the resident's refusal and its reason to the resident's treating physician and it must document such in the resident's record;

(d) To have his or her file kept confidential and private. An ACH shall obtain the resident's written consent prior to release of information except as otherwise authorized by law;

(e) To be fully informed of the Resident's Rights, of any policies and procedures governing resident conduct, of any services available in the ACH, and of the schedule of all fees for any and all services;

(f) To participate in drawing up the terms of the admission agreement, including, but not limited to, providing for resident's preferences for physician care, hospitalization, nursing home care, acquisition of medication, preferences for hospice and home care providers, emergency plans and funeral arrangements;

(g) To be given thirty (30) days written notice prior to transfer or discharge, except when any physician orders the transfer because the resident requires a higher level of care;

(h) To voice grievances and recommend changes in policies and services of the ACH without restraint, interference, coercion, discrimination or reprisal. An ACH shall inform the resident of procedures to voice grievances and for registering complaints confidentially;

(i) To manage his or her personal financial affairs, including the right to keep and spend his or her own money. If the resident requests assistance from the ACH in managing his or her personal financial affairs, the request must be in writing and the resident may terminate it at any time. The ACH must separate such monies from the ACH's operating funds and all other deposits or expenditures, submit a written accounting to the resident at least quarterly, and immediately return the balance upon transfer or discharge. The ACH shall maintain a current copy of this report in the resident's file;

(j) To be treated with consideration, respect and full recognition of his or her dignity and individuality;

(k) To be accorded privacy for sleeping and for storage space for personal belongings;

(l) To have free access to day rooms, dining and other group living or common areas at reasonable hours and to come and go from the ACH, unless such access infringes upon the rights of other residents;

(m) To wear his or her own clothes, to keep and use his or her own toilet articles and personal possessions;

(n) To send and receive unopened mail;

(o) To associate and communicate privately with persons of his or her choice, including receiving visitors at reasonable hours;

(p) To participate, or to refuse to participate, in community activities, including cultural, educational, religious, community service, vocational and recreational activities;

(q) To not be required to perform services for the ACH. The resident and licensee may mutually agree, in writing, that the resident may perform certain activities or services as part of the fee for his or her stay; and

(r) To execute, modify, or rescind a Living Will, Do-Not-Resuscitate Order or advance directive.

Authority: T.C.A. § 68-11-209.

1200-08-36-.16 Policies and Procedures for Health Care Decision-Making.

(1) Pursuant to this rule, each ACH shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a resident who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual residents. An adult or emancipated minor may give an individual instruction. The instruction may be oral or written. The instruction may be limited to take effect only if a specified condition arises.

(2) An adult or emancipated minor may execute an advance directive for health care. The advance directive may authorize an agent to make any health care decision the resident could have made while having capacity, or it may limit the power of the agent, and it may include individual instructions. An advance directive that makes no limitation on the agent's authority shall authorize the agent to make any health care decision the resident could have made while having capacity.

(3) The advance directive shall be in writing, signed by the resident, and shall either be notarized or witnessed by two (2) witnesses. Both witnesses shall be competent adults, and neither of them may be the agent. At least one (1) of the witnesses shall be a person who is not related to the resident by blood, marriage, or adoption and would not be entitled to any portion of the resident's estate upon his or her death. The advance directive shall contain a clause that attests that the witnesses comply with the requirements of this paragraph.

(4) Unless otherwise specified in an advance directive, the agent's authority becomes effective only upon a determination that the resident lacks capacity, and it ceases to be effective upon a determination that the resident has recovered capacity.

(5) An ACH may use the model advance directive form that meets the requirements of the Tennessee Health Care Decisions Act and has been developed and issued by the Board for Licensing Health Care Facilities.

(6) The resident's designated physician shall make a determination that a resident either lacks or has recovered capacity. The designated physician shall also have authority to make a determination that another condition exists that affects an individual instruction or the authority of an agent. To make such determinations the resident's designated physician shall be authorized to consult with such other persons as the physician may deem appropriate.

(7) An agent shall make a health care decision in accordance with the resident's individual instructions, if any, and other wishes to the extent known to the agent. Otherwise, the agent shall make the decision in accordance with the resident's best interest. In determining the resident's best interest, the agent shall consider the resident's personal values to the extent known.

(8) An advance directive may include the individual's nomination of a court-appointed guardian.

(9) An ACH shall honor an advance directive that is executed outside of this state by a nonresident of this state at the time of execution if that advance directive is in compliance with the laws of Tennessee or the state of the resident's residence.

(10) No health care provider or institution shall require the execution or revocation of an advance directive as a condition for being insured for, or receiving, health care.

(11) Any living will, durable power of attorney for health care, or other instrument signed by the individual, complying with the terms of T.C.A. § 32-11-101 et seq., and a durable power of attorney for health care complying with the terms of T.C.A. § 34-6-201 et seq., shall be given effect and interpreted in accord with those respective acts. Any advance directive that does not evidence an intent to be given effect under those acts but that complies with these regulations may be treated as an advance directive under these regulations.

(12) A resident having capacity may revoke the designation of an agent only by a signed writing or by personally informing the supervising health care provider.

(13) A resident having capacity may revoke all or part of an advance directive, other than the designation of an agent, at any time and in any manner that communicates intent to revoke.

(14) A decree of annulment, divorce, dissolution of marriage, or legal separation revokes a previous designation of a spouse as an agent unless otherwise specified in the decree or in an advance directive.

(15) An advance directive that conflicts with a previously executed advance directive revokes the earlier directive to the extent of the conflict.

(16) Surrogates.

(a) An adult or emancipated minor may designate any individual to act as surrogate by personally informing, either orally or in writing, the supervising health care provider.

(b) A surrogate may make a health care decision for a resident who is an adult or emancipated minor if and only if:

1. The designated physician determines that the resident lacks capacity, and

2. There is not an appointed agent or guardian; or

3. The agent or guardian is not reasonably available.

(c) In the case of a resident who lacks capacity, the resident's current clinical record of the ACH shall identify his or her surrogate.

(d) The resident's surrogate shall be an adult who has exhibited special care and concern for the resident, who is familiar with the resident's personal values, who is reasonably available, and who is willing to serve.

(e) Consideration may be, but need not be, given in order of descending preference for service as a surrogate to:

1. The resident's spouse, unless legally separated;

2. The resident's adult child;

3. The resident's parent;

4. The resident's adult sibling;

5. Any other adult relative of the resident; or

6. Any other adult who satisfies the requirements of Rule 1200-08-36-.15(16)(d).

(f) No person who is the subject of a protective order or other court order that directs that person to avoid contact with the resident shall be eligible to serve as the resident's surrogate.

(g) The following criteria shall be considered in the determination of the person best qualified to serve as the surrogate:

1. Whether the proposed surrogate reasonably appears to be better able to make decisions either in accordance with the resident's known wishes or best interests;

2. The proposed surrogate's regular contact with the resident prior to and during the incapacitating illness;

3. The proposed surrogate's demonstrated care and concern;

4. The proposed surrogate's availability to visit the resident during his or her illness; and

5. The proposed surrogate's availability to engage in face-to-face contact with health care providers for the purpose of fully participating in the decision-making process.

(h) If the resident lacks capacity and none of the individuals eligible to act as a surrogate under Rules 1200-08-36-.15(16)(c) thru 1200-08-36-.15(16)(g) is reasonably available, the designated physician may make health care decisions for the resident after the physician either:

1. Consults with and obtains the recommendations of a facility's ethics mechanism or standing committee in the facility that evaluates health care issues; or

2. Obtains concurrence from a second physician who is not directly involved in the resident's health care, does not serve in a capacity of decision-making, influence, or responsibility over the designated physician, and is not under the designated physician's decision-making, influence, or responsibility.

(i) In the event of a challenge, there shall be a rebuttable presumption that the selection of the surrogate was valid. Any person who challenges the selection shall have the burden of proving the invalidity of that selection.

(j) A surrogate shall make a health care decision in accordance with the resident's individual instructions, if any, and other wishes to the extent known to the surrogate. Otherwise, the surrogate shall make the decision in accordance with the surrogate's determination of the resident's best interest. In determining the resident's best interest, the surrogate shall consider the resident's personal values to the extent known.

(k) A surrogate who has not been designated by the resident may make all health care decisions for the resident that the resident could make on the resident's own behalf, except that artificial nutrition and hydration may be withheld or withdrawn for a resident upon a decision of the surrogate only when the designated physician and a second independent physician certify in the resident's current clinical records that the provision or continuation of artificial nutrition or hydration is merely prolonging the act of dying and the resident is highly unlikely to regain capacity to make medical decisions.

(l) Except as provided in Rule 1200-08-36-.15(16)(m):

1. A designated surrogate may not be one of the following:

(i) the treating health care provider;

(ii) an employee of the treating health care provider;

(iii) an operator of a health care institution; or

(iv) an employee of an operator of a health care institution; and

2. A health care provider or employee of a health care provider may not act as a surrogate if the health care provider becomes the resident's treating health care provider.

(m) A designated surrogate may be an employee of the treating health care provider or an employee of an operator of a health care institution if:

1. The employee so designated is a relative of the resident by blood, marriage, or adoption; and

2. The other requirements of this section are satisfied.

(n) A health care provider may require an individual claiming the right to act as surrogate for a resident to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.

(17) Guardian.

(a) A guardian shall comply with the resident's individual instructions and may not revoke the resident's advance directive absent a court order to the contrary.

(b) Absent a court order to the contrary, a health care decision of an agent takes precedence over that of a guardian.

(c) A health care provider may require an individual claiming the right to act as guardian for a resident to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.

(18) A designated physician who makes or is informed of a determination that a resident lacks or has recovered capacity, or that another condition exists which affects an individual instruction or the authority of an agent, guardian, or surrogate, shall promptly record such a determination in the resident's current clinical record and communicate the determination to the resident, if possible, and to any person then authorized to make health care decisions for the resident.

(19) Except as provided in Rules 1200-08-36-.15(20) thru 1200-08-36-.15(22), a health care provider or institution providing care to a resident shall:

(a) Comply with an individual instruction of the resident and with a reasonable interpretation of that instruction made by a person then authorized to make health care decisions for the resident; and

(b) Comply with a health care decision for the resident made by a person then authorized to make health care decisions for the resident to the same extent as if the decision had been made by the resident while having capacity.

(20) A health care provider may decline to comply with an individual instruction or health care decision for reasons of conscience.

(21) A health care institution may decline to comply with an individual instruction or health care decision if the instruction or decision is:

(a) Contrary to an institution's policy which is based on reasons of conscience, and

(b) The institution timely communicated the policy to the resident or to a person then authorized to make health care decisions for the resident.

(22) A health care provider or institution may decline to comply with an individual instruction or health care decision that requires medically inappropriate health care or health care contrary to generally accepted health care standards applicable to the health care provider or institution.

(23) A health care provider or institution that declines to comply with an individual instruction or health care decision pursuant to Rules 1200-08-36-.15(20) thru 1200-08-36-.15(22) shall:

(a) Promptly inform the resident, if possible, and/or any other person then authorized to make health care decisions for the resident;

(b) Provide continuing care to the resident until he can be transferred to another health care provider or institution or it is determined that such a transfer is not possible;

(c) Immediately make all reasonable efforts to assist in the transfer of the resident to another health care provider or institution that is willing to comply with the instruction or decision unless the resident or person then authorized to make health care decisions for the resident refuses assistance; and

(d) If a transfer cannot be effected, the health care provider or institution shall not be compelled to comply.

(24) Unless otherwise specified in an advance directive, a person then authorized to make health care decisions for a resident has the same rights as the resident to request, receive, examine, copy, and consent to the disclosure of medical or any other health care information.

(25) A health care provider or institution acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

(a) Complying with a health care decision of a person apparently having authority to make a health care decision for a resident, including a decision to withhold or withdraw health care;

(b) Declining to comply with a health care decision of a person based on a belief that the person then lacked authority; or

(c) Complying with an advance directive and assuming that the directive was valid when made and had not been revoked or terminated.

(26) An individual acting as an agent or surrogate is not subject to civil or criminal liability or to discipline for unprofessional conduct for health care decisions made in good faith.

(27) A person identifying a surrogate is not subject to civil or criminal liability or to discipline for unprofessional conduct if such identification is made in good faith.

(28) A copy of a written advance directive, revocation of an advance directive, or designation or disqualification of a surrogate has the same effect as the original.

(29) The withholding or withdrawal of medical care from a resident in accordance with the provisions of the Tennessee Health Care Decisions Act shall not, for any purpose, constitute a suicide, euthanasia, homicide, mercy killing, or assisted suicide.

(30) Universal Do Not Resuscitate Order (DNR).

(a) The Physicians Order for Scope of Treatment (POST) form, a form meeting the provisions of the Health Care Decisions Act and approved by the Board for Licensing Health Care Facilities, may be used as the universal do not resuscitate order by all facilities. A universal do not resuscitate order (DNR) may be used by a physician for his/her patient with whom he/she has a physician/patient relationship, but only:

1. With the consent of the patient; or

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act; or

3. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order and the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act is not reasonably available, the physician determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(b) If the resident is an adult who is capable of making an informed decision, the resident's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke a universal do not resuscitate order. If the resident is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the resident be resuscitated by the person authorized to consent on the resident's behalf shall revoke a universal do not resuscitate order.

(c) Universal do not resuscitate orders shall remain valid and in effect until revoked. Qualified emergency medical services personnel, and licensed health care practitioners in any facility, program or organization operated or licensed by the Board for Licensing Health Care Facilities, the Department of Mental Health, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency are authorized to follow universal do not resuscitate orders.

(d) Nothing in these rules shall authorize the withholding of other medical interventions, such as intravenous fluids, oxygen, or other therapies deemed necessary to provide comfort care or to alleviate pain.

(e) When a person with a universal do not resuscitate order is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of the universal do not resuscitate order to the receiving facility prior to the transfer. The transferring facility shall assure that a copy of the universal do not resuscitate order accompanies the resident in transport to the receiving health care facility. Upon admission, the receiving facility shall make the universal do not resuscitate order a part of the resident's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the universal do not resuscitate order when transferring a resident from one health care facility to another health care facility.

(f) This section shall not prevent, prohibit, or limit a physician from issuing a written order, other than a universal do not resuscitate order, not to resuscitate a resident in the event of cardiac or respiratory arrest in accordance with accepted medical practices.

(g) Valid do not resuscitate orders or emergency medical services do not resuscitate orders issued before July 1, 2004, pursuant to the then-current law, shall remain valid and shall be given effect as provided.

Authority: T.C.A. §§ 68-11-209, 68-11-224 and 68-11-1801. et seq.

1200-08-36-.17 Disaster Preparedness.

(1) An ACH shall have in effect and available for all supervisory personnel and staff written copies of the following disaster, refuge and/or evacuation plans readily available at all times:

(a) Fire Safety Procedures Plan shall include:

1. Minor fires;

2. Major fires;

3. Fighting the fire;

4. Evacuation procedures; and

5. Staff functions.

(b) Tornado/Severe Weather Procedures Plan shall include:

1. Staff duties; and

2. Evacuation procedures.

(c) Bomb Threat Procedures Plan shall include:

1. Staff duties;

2. Search team, searching the premises;

3. Notification of authorities;

4. Location of suspicious objects; and,

5. Evacuation procedures.

(d) Flood Procedure Plan, if applicable, shall include:

1. Staff duties;

2. Evacuation procedures; and

3. Safety procedures following the flood.

(e) Severe Cold Weather and Severe Hot Weather Procedure Plans shall include:

1. Staff duties;

2. Equipment failures;

3. Evacuation procedures; and

4. Emergency food service.

(f) Earthquake Disaster Procedures Plan shall include:

1. Staff duties;

2. Evacuation procedures;

3. Safety procedures; and

4. Emergency services.

(2) An ACH shall comply with the following:

(a) Maintain a detailed log with staff signatures designating training each employee receives regarding disaster preparedness.

(b) Train all employees annually as required in the plans listed above and keep each employee informed with respect to the employee's duties under the plans.

(c) Exercise each of the plans listed above annually.

(3) An ACH shall participate in the Tennessee Emergency Management Agency local/county emergency plan on an annual basis. Participation includes:

(a) Filling out and submitting a questionnaire on a form to be provided by the Tennessee Emergency Management Agency; and

(b) Maintaining documentation of participation that shall be made available to survey staff as proof of participation.

(4) An ACH shall have a functioning emergency back-up generator adequate to meet the ACH's HVAC and essential needs until regular service is restored. The ACH shall have a minimum of twenty-four (24) hours of fuel designed to operate at its rated load. This requirement shall be coordinated with the Disaster Preparedness Plan or with the local resources.

(a) All generators shall be exercised for thirty (30) minutes each month under full load, including automatic and manual transfer of equipment.

(b) The emergency generator shall be operated at the existing connected load and not on dual power. The ACH shall maintain a monthly log and have trained staff familiar with the generator's operation.

Authority: T.C.A. § 68-11-209.

1200-08-36-.18 Appendix I

(1) Physician Orders for Scope of Treatment (POST) Form

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Physician Orders for Scope of Treatment (POST) This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth
Section A Check One Box Only	CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and/or is not breathing. ☐ Resuscitate (CPR) ☐ Do Not Attempt Resuscitation (DNR/no CPR) When not in cardiopulmonary arrest, follow orders in B, C, and D.
Section B Check One Box Only	MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing. ☐ Comfort Measures Treat with dignity and respect. Keep clean, warm, and dry. Use medication by any route, positioning, wound care and other measures to relieve pain and suffering. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. ☐ Limited Additional Interventions Includes care described above. Use medical treatment, IV fluids and cardiac monitoring as indicated. Do not use intubation, advanced airway interventions, or mechanical ventilation. Transfer to hospital if indicated. Avoid intensive care.

	☐ Full Treatment. Includes care above. Use intubation, advanced airway interventions mechanical ventilation, and cardioversion as indicated. Transfer to hospital if indicated. Include intensive care. Other Instructions:_____
Section C Check One Box Only	ANTIBIOTICS – Treatment for new medical conditions: ☐ No Antibiotics ☐ Antibiotics Other Instructions:_____
Section D Check One Box Only in Each Column	MEDICALLY ADMINISTERED FLUIDS AND NUTRITION. Oral fluids and nutrition must be offered if medically feasible. ☐ No IV fluids (provide other measures to assure comfort) ☐ No feeding tube ☐ IV fluids for a defined trial period ☐ Feeding tube for a defined trial period ☐ IV fluids long-term if indicated ☐ Feeding tube long-term Other Instructions:_____

Section E Must be Completed	Discussed with: ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other:_____(Specify)	The Basis for These Orders Is: (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other)_____	
	Physician Name (Print)	Physician Phone Number	Office Use Only
	Physician Signature (Mandatory)	Date	

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

HIPAA PERMITS DISCLOSURE OF POST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Significant thought has been given to life-sustaining treatment. Preferences have been expressed to a physician and/or health care professional(s). This document reflects those treatment preferences.

(If signed by surrogate, preferences expressed must reflect patient's wishes as best understood by surrogate.)

Signature	Name (print)	Relationship (write "self" if patient)

Contact Information

Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

POST must be signed by a physician to be valid. Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through E and write "VOID" in large letters if POST is replaced or becomes invalid.

Approved by Tennessee Department of Health, Board for Licensing Health Care Facilities, February 2, 2005

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

DO NOT ALTER THIS FORM!

(2) Advance Care Plan Form

ADVANCE CARE PLAN

Instructions: Competent adults and emancipated minors may give advance instructions using this form or any form of their own choosing. To be legally binding, the Advance Care Plan must be signed and either witnessed or notarized.

I, _____, hereby give these advance instructions on how I want to be treated by my doctors and other health care providers when I can no longer make those treatment decisions myself.

Agent: I want the following person to make health care decisions for me:

Name:_____ Phone #: _____ Relation: _____

Address: _____

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate:

Name:_____ Phone #: _____ Relation: _____

Address: _____

Quality of Life:

I want my doctors to help me maintain an acceptable quality of life including adequate pain management. A quality of life that is unacceptable to me means when I have any of the following conditions (you can check as many of these items as you want):

☐ Permanent Unconscious Condition: I become totally unaware of people or surroundings with little chance of ever waking up from the coma.

☐ Permanent Confusion: I become unable to remember, understand or make decisions. I do not recognize loved ones or cannot have a clear conversation with them.

☐ Dependent in all Activities of Daily Living: I am no longer able to talk clearly

or move by myself. I depend on others for feeding, bathing, dressing and walking. Rehabilitation or any other restorative treatment will not help.

☐ End-Stage Illnesses: I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that does not respond anymore to treatment; chronic and/or damaged heart and lungs, where oxygen needed most of the time and activities are limited due to the feeling of suffocation.

Treatment:

If my quality of life becomes unacceptable to me and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. Checking "yes" means I WANT the treatment. Checking "no" means I DO NOT want the treatment.

☐ Yes ☐ No	CPR (Cardiopulmonary Resuscitation): To make the heart beat again and restore breathing after it has stopped. Usually this involves electric shock, chest compressions, and breathing assistance.
☐ Yes ☐ No	Life Support/Other Artificial Support: Continuous use of breathing machine, IV fluids, medications, and other equipment that helps the lungs, heart, kidneys and other organs to continue to work.
☐ Yes ☐ No	Treatment of New Conditions: Use of surgery, blood transfusions, or antibiotics that will deal with a new condition but will not help the main illness.
☐ Yes ☐ No	Tube feeding/IV fluids: Use of tubes to deliver food and water to patient's stomach or use of IV fluids into a vein which would include artificially delivered nutrition and hydration.

Other instructions, such as burial arrangements, hospice care, etc.:_____

_____

_____

(Attach additional pages if necessary)

Organ donation (optional): Upon my death, I wish to make the following anatomical gift (please mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

_____

SIGNATURE

Your signature should either be witnessed by two competent adults or notarized. If witnessed, neither witness should be the person you appointed as your agent, and at least one of the witnesses should be someone who is not related to you or entitled to any part of your estate.

Signature: _____ Date:_____
(Patient)

Witnesses:

1. I am a competent adult who is not named as the agent. I witnessed the patient's signature on this form. _____ Signature of witness number 1

2. I am a competent adult who is not named as the agent. I am not related to the patient by blood, marriage, or adoption and I would not be entitled to any portion of the patient's estate upon his or her death under any existing will or codicil or by operation of law. I witnessed the patient's signature on this form. _____ Signature of witness number 2

This document may be notarized instead of witnessed:

STATE OF TENNESSEE
COUNTY OF_____

I am a Notary Public in and for the State and County named above. The person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who signed as the "patient". The patient personally appeared before me and signed above or acknowledged the signature above as his or her own. I declare under penalty of perjury that the patient appears to be of sound mind and under no duress, fraud, or undue influence.

My commission expires: _____ _____

Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE

- Provide a copy to your physician(s)
- Keep a copy in your personal files where it is accessible to others
- Tell your closest relatives and friends what is in the document
- Provide a copy to the person(s) you named as your health care agent

Approved by Tennessee Department of Health, Board for Licensing Health Care Facilities, February 2, 2005
Acknowledgement to Project GRACE for inspiring the development of this form.

Authority: T.C.A. §§ 68-11-209, 68-11-224, and 68-11-1805.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Dr. Larry Arnold	X				
Sylvia Burton	X				
Dr. Thomas Carr				X	
Paula Collier	X				
Betsy Cummins	X				
Alex Gaddy	X				
Robert Gordon	X				
Dr. Jennifer Gordon-Maloney				X	
Luke Gregory				X	
Mike Hann				X	
Janet Hill	X				
Dr. Roy King				X	
Carissa Lynch	X				
Annette Marlar	X				
John Marshall	X				
Sara Snodgrass	X				
James Weatherington				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board for Licensing Health Care Facilities on 11/10/2010, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *09/17/10*

Rulemaking Hearing(s) Conducted on: (add more dates). *11/10/10*

Date: 12/14/10

Signature: Alison G. Cleaves

Name of Officer: Alison G. Cleaves

Title of Officer: Deputy General Counsel
Department of Health

Subscribed and sworn to before me on: 12/14/10

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 11/7/11

THEODORA P. WILKINS NOTARY PUBLIC AT LARGE DAVIDSON COUNTY, TENN.

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

R E Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

1-27-11
Date

Department of State Use Only

Filed with the Department of State on: 1/28/11

Effective on: 4/28/11

Tre Hargett
Secretary of State

RECEIVED
2011 JAN 28 AM 11:35
SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

PUBLIC HEARING COMMENTS

RULEMAKING HEARING

TENNESSEE DEPARTMENT OF HEALTH

BOARD FOR LICENSING HEALTH CARE FACILITIES

The rulemaking hearing for the Tennessee Department of Health, Board for Licensing Health Care Facilities was held on November 10, 2010 in the Department of Health Conference Center's Iris Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee. Alison G. Cleaves, Deputy General Counsel, presided over the hearing.

There were no written comments received prior to the meeting and no public comments were made at the hearing.

Regulatory Flexibility Addendum
Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

Regulatory Flexibility Analysis

(1) The proposed rules do not overlap, duplicate, or conflict with other federal, state, or local government rules.

(2) The proposed rules exhibit clarity, conciseness, and lack of ambiguity.

(3) The proposed rules are not written with special consideration for the flexible compliance and/or reporting requirements because the licensing boards have, as their primary mission, the protection of the health, safety and welfare, of Tennesseans. However, the rules proposed rules are written with a goal of avoiding unduly onerous regulations.

(4) The schedules and deadlines throughout the proposed rules are as "user-friendly" as possible while still allowing the Division to achieve its mandated mission in licensing health care facilities. There is generally sufficient notice between the rulemaking hearing and the final promulgation of rules to allow services and providers to come into compliance with the proposed rules.

(5) Compliance requirements are not consolidated or simplified for small businesses in the proposed rules for the protection of the health, safety and welfare, of Tennesseans.

(6) The standards required in the proposed rules are very basic and do not necessitate the establishment of performance standards for small businesses.

(7) There are no unnecessary entry barriers or other effects in the proposed rules that would stifle entrepreneurial activity or curb innovation.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Tennessee Department of Health, Board for Licensing Health Care Facilities

Rulemaking hearing date: November 10, 2010.

Types of small businesses that will be directly affected by the proposed rules:

These rule changes only affect adult care homes. Their impact on small businesses is expected to be negligible.

Types of small businesses that will bear the cost of the proposed rules:

The rule changes impact adult care homes – Level 2, and would have minimal affect on any small businesses.

Types of small businesses that will directly benefit from the proposed rules:

None known.

Description of how small business will be adversely impacted by the proposed rules:

The rule changes should have little adverse impact on small business as they primarily affect adult care homes.

Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:

The Department of Health, Board for Licensing Health Care Facilities does not believe there are less burdensome alternatives to the proposed rule amendments.

Comparison of the proposed rule with federal or state counterparts:

Federal: Board for Licensing Health Care Facilities is not aware of any federal counterparts.

State: The proposed rule amendments regarding adult care homes will have no state counterpart because the Department of Health, Board for Licensing Health Care Facilities is the only agency charged with regulating adult care homes.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

It is not expected that these new rules will have an effect on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

(A) Rule 1200-08-36-.01 [Definitions] establishes the definitions that will be used in the rules to implement the licensure program for adult care homes. Specific to this new licensure category are definitions of "traumatic brain injury", "ventilator dependent", and "adult care home provider". An adult care home provider is defined in statute as a person who operates an adult care home serving up to five (5) elderly or disabled adults who are unrelated to the adult care home provider by blood or marriage; the residents in the home are ventilator dependent or suffering from a traumatic brain injury.

Rule 1200-08-36-.02 [Licensure and Renewal] establishes the licensure and renewal requirements as well as what constitutes a change of ownership in an adult care home and when more than one (1) adult care home license may be granted to an adult care home provider.

Rule 1200-08-36-.03 [Fees] establishes the fee for an adult care home provider license; the fee is established at $1,080.

Rule 1200-08-36-.04 [Regulatory Standards] provides that each adult care home shall be inspected by Department of Health surveyors within fifteen (15) months following the date of its last inspection to ensure compliance with applicable laws and rules. The Department shall also conduct investigations of complaint allegations against the adult care home. Should there be a violation of applicable laws and rules, the Board for Licensing Health Care Facilities ("Board") has the authority to discipline a licensee through revocation, suspension, probation or the imposition of a civil penalty. The Board may consider the willfulness and repetitiveness of the violation as well as the risk of harm caused by the violation in accessing a civil penalty.

Rule 1200-08-36-.05 [Administration] establishes standards for the adult care home staff providing that the staff shall be awake and available twenty-four (24) hours a day, shall demonstrate competency in providing specialized services, shall be able to evacuate the residents within five (5) minutes or less, shall know how to operate a generator without assistance, and shall coordinate with health care professionals as appropriate. The rule also establishes that the adult care home shall have established policies and procedures for the filing of resident complaints and grievances and shall have protocols for infection control.

Rule 1200-08-36-.06 [Services Provided] establishes the medical services that shall be provided in the adult care home, particularly the self-administration of medication, disposal of medications. The rule also establishes the personal services provided to the resident, such as laundry services and dietary services.

Rule 1200-08-36-.07 [Admissions, Discharges, and Transfers] establishes the admission standards into adult care homes, which include, but are not limited to care to ventilator dependent residents and residents suffering from a traumatic brain injury only; and admitting or retaining a resident who can be evacuated within five (5) minutes. The rule also establishes when residents may be moved, transferred or discharged from an adult care home.

Rule 1200-08-36-.08 [Personal and Health Care Needs] provides that an adult care home provider shall conduct an assessment of a prospective resident before admitting the resident and that the assessment shall include diagnoses, medications, personal care needs, nursing care needs, nutritional needs, activities, and lifestyle preferences. The rule also provides that the adult care home provider shall develop a plan of care for each resident.

Rule 1200-08-36-.09 [Resident Records] provides that each adult care home provider shall develop and maintain an organized resident record for each resident to ensure that all of the entries are legible, kept electronically, signed and dated. The rule also provides that the adult care home shall develop and maintain a personal record for each resident, which shall include, but not be limited to resident's next of kin or legal representative; resident's preferred physician; monies and valuables entrusted to the adult care home; admission agreement; advanced directive; and a record that the resident has received a copy of the resident rights. The rule also provides that the adult care home shall develop and maintain a medical record for each resident, which shall include, but not be limited to resident's medical history; consultation with physicians;

medication administration record; and treatments or therapies given.

Rule 1200-08-36-.10 [Facility Standards] provides that each adult care home shall be maintained to ensure a homelike environment, that each resident shall have his or her own sleeping room, that the use of common areas shall be accessible to all residents, that bathrooms shall be accessible, clean and private.

Rule 1200-08-36-.11 [Building Standards] provides that the adult care home shall be constructed, arranged, and maintained to ensure the safety and well-being of the residents. An applicant shall submit building construction plans to the Department for approval upon submitting an application and licensure fees. No new adult care home shall be constructed nor shall any major alterations be made to an existing adult care home without the prior approval of the Department. The plans and specifications shall be prepared for architectural, structural, mechanical, electrical, and sprinkler parts of the project.

Rule 1200-08-36-.12 [Life Safety] provides that the adult care home shall comply with all applicable building and fire safety regulations and that and adult care home providing care and services to ventilator dependent patients shall be fully sprinklered. The rule also provides that the adult care home shall ensure the fire protection of the residents by taking certain step, which include, but are not limited to eliminating fire hazards; installing necessary fire equipment; adopting a written fire control plan; ensuring that each resident sleeping unit shall have a door that opens directly to the outside or a corridor; prohibiting the use of combustible finishes and furnishings; and prohibiting the use of open flame and portable space heaters. The rule further provides that the adult care home shall conduct periodic fire drills, shall take outlined steps should a fire occur; shall take precautions relative to electrical equipment; and shall maintain its physical environment in a safe, clean and sanitary manner.

Rule 1200-08-36-.13 [Infections and Hazardous Waste] provides that the adult care home shall develop, maintain and implement policies and procedures for the definition and handling of its infectious waste.

Rule 1200-08-36-.14 [Reports] provides that the adult care home shall report all incidents of abuse, neglect or misappropriation to the Department in accordance with T.C.A. §68-11-211 as well as incidents of strike by staff, external disasters, disruption of services and fires.

Rule 1200-08-36-.15 [Resident Rights] provides that the adult care home shall ensure certain resident rights, including, but not limited to privacy in treatment and personal care; freedom from mental and physical abuse; the ability to refuse treatment; the ability to manage personal affairs; the ability to voice grievances; and the confidentiality of records.

Rule 1200-08-36-.16 [Policies and Procedures for Health Care Decision Making] provides that the adult care home shall maintain and establish policies and procedures governing the designation of a health care decision maker for making health care decisions for the resident. An ACH shall honor and advanced care directive and shall ensure that the advanced care directive shall be in writing, signed by the resident and either notarized or witnessed by two (2) witnesses. Rule also provides that an adult or emancipated minor may designate any individual to act as a surrogate by personally informing the supervising health care provider. A surrogate may make a health care decision for a resident who is an adult or emancipated minor only if the designated physician determines the resident lacks capacity, there is no appointed agent or guardian, or the agent or guardian is not reasonably available.

Rule 1200-08-36-.17 [Disaster Preparedness] provides that the adult care home shall develop a disaster refuge or evacuation plan, which shall include fire safety procedures plan, tornado/severe weather plan, bomb threat procedures plan, flood procedure plan, severe cold weather and severe hot weather procedure plan, and a earthquake disaster procedures plan.

Rule 1200-08-36-.18 [Appendix I] provides an advanced directive form that may be used by an adult care home.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The applicable law is contained in T.C.A. §§68-11-201, 68-11-202, 68-11-206, 68-11-207, 68-11-208, 68-11-209 and 68-11-270..

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The persons, organizations, corporations, and entities affected by these rules will be those individuals who wish to be an adult care home provider operating an adult care home.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

To the best of my knowledge, there are no attorney general opinions or any judicial ruling that directly relates to these rules.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

Because this program is required to maintain self-sufficiency by the fees generated through this rulemaking, there should not be either a positive or a negative fiscal impact.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

I, as well as Vincent Davis, Director for the Board for Licensing Health Care Facilities possess substantial knowledge and understanding of the rules.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

I, as well as Vincent Davis, Director for the Board for Licensing Health Care Facilities will explain the rule at a scheduled meeting of the Government Operations Committee.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Alison Cleaves, Plaza One, Suite 210, 220 Athens Way, Nashville, Tennessee 37243, (615) 741-1611, Alison.Cleaves@tn.gov and Vincent Davis, 227 French Landing, Heritage Place, Nashville, Tennessee 37243, (615) 741-7532, Vincent.Davis@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

I will provide any additional information requested by the Government Operations Committee.