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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Department of Health
Division:	Bureau of Health Licensure and Regulation Division of Health Care Facilities
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Revision Type (check all that apply):
X Amendment
___ 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**
1200-08-01	Standards for Hospitals
Rule Number	**Rule Title**
1200-08-01-.01	Definitions
1200-08-01-.07	Optional Hospital Services
1200-08-01-.13	Policies and Procedures for Health Care Decision-Making
1200-08-01-.15	Appendix I

Chapter Number	**Chapter Title**
1200-08-02	Standards for Prescribed Child Care Centers
Rule Number	**Rule Title**
1200-08-02-.01	Definitions
1200-08-02-.12	Policies and Procedures for Health Care Decision-Making
1200-08-02-.14	Appendix I

Chapter Number	**Chapter Title**
1200-08-06	Standards for Nursing Homes
Rule Number	**Rule Title**
1200-08-06-.01	Definitions
1200-08-06-.13	Policies and Procedures for Health Care Decision-Making
1200-08-06-.15	Nurse Aide Training and Competency Evaluation
1200-08-06-.16	Appendix I

Chapter Number	**Chapter Title**
1200-08-10	Standards for Ambulatory Surgical Treatment Centers

Rule Number	Rule Title
1200-08-10-.01	Definitions
1200-08-10-.06	Basic Services
1200-08-10-.13	Policies and Procedures for Health Care Decision-Making
1200-08-10-.15	Appendix I

Chapter Number	Chapter Title
1200-08-11	Standards for Homes for the Aged
Rule Number	**Rule Title**
1200-08-11-.01	Definitions
1200-08-11-.12	Policies and Procedures for Health Care Decision-Making
1200-08-11-.14	Appendix I

Chapter Number	Chapter Title
1200-08-15	Standards for Residential Hospices
Rule Number	**Rule Title**
1200-08-15-.01	Definitions
1200-08-15-.06	Plan of Care
1200-08-15-.13	Policies and Procedures for Health Care Decision-Making
1200-08-15-.15	Appendix I

Chapter Number	Chapter Title
1200-08-24	Standards for Birthing Centers
Rule Number	**Rule Title**
1200-08-24-.01	Definitions
1200-08-24-.12	Policies and Procedures for Health Care Decision-Making
1200-08-24-.14	Appendix I

Chapter Number	Chapter Title
1200-08-25	Standards for Assisted-Care Living Facilities
Rule Number	**Rule Title**
1200-08-25-.02	Definitions
1200-08-25-.06	Administration
1200-08-25-.07	Services Provided
1200-08-25-.08	Admissions, Discharges, and Transfers
1200-08-25-.15	Policies and Procedures for Health Care Decision-Making
1200-08-25-.17	Appendix I

Chapter Number	Chapter Title
1200-08-26	Standards for Home Care Organizations Providing Home Health Services
Rule Number	**Rule Title**
1200-08-26-.01	Definitions
1200-08-26-.04	Administration
1200-08-26-.13	Policies and Procedures for Health Care Decision-Making
1200-08-26-.15	Appendix I

Chapter Number	Chapter Title
1200-08-27	Standards for Home Care Organizations Providing Hospice Services
Rule Number	**Rule Title**
1200-08-27-.01	Definitions
1200-08-27-.06	Basic Agency Functions
1200-08-27-.13	Policies and Procedures for Health Care Decision-Making
1200-08-27-.15	Appendix I

Chapter Number	Chapter Title
1200-08-28	Standards for HIV Supportive Living Centers
Rule Number	**Rule Title**
1200-08-28-.01	Definitions

1200-08-28-.13	Policies and Procedures for Health Care Decision-Making
1200-08-28-.15	Appendix I

Chapter Number	**Chapter Title**
1200-08-29	Standards for Home Care Organizations Providing Home Medical Equipment
Rule Number	**Rule Title**
1200-08-29-.01	Definitions
1200-08-29-.04	Administration

Chapter Number	**Chapter Title**
1200-08-30	Standards for Pediatric Emergency Care Facilities
Rule Number	**Rule Title**
1200-08-30-.01	Definitions
1200-08-30	Table 1

Chapter Number	**Chapter Title**
1200-08-32	Standards for End Stage Renal Dialysis Clinics
Rule Number	**Rule Title**
1200-08-32-.01	Definitions
1200-08-32-.13	Policies and Procedures for Health Care Decision-Making
1200-08-32-.15	Appendix I

Chapter Number	**Chapter Title**
1200-08-34	Standards for Home Care Organizations Providing Professional Support Services
Rule Number	**Rule Title**
1200-08-34-.01	Definitions
1200-08-34-.04	Administration
1200-08-34-.13	Policies and Procedures for Health Care Decision-Making
1200-08-34-.15	Appendix I

Chapter Number	**Chapter Title**
1200-08-35	Standards for Outpatient Diagnostic Centers
Rule Number	**Rule Title**
1200-08-35-.01	Definitions
1200-08-35-.13	Policies and Procedures for Health Care Decision-Making
1200-08-35-.15	Appendix I

Chapter Number	**Chapter Title**
1200-08-36	Standards for Adult Care Homes-Level 2
Rule Number	**Rule Title**
1200-08-36-.01	Definitions
1200-08-36-.06	Services Provided
1200-08-36-.07	Admissions, Discharges, and Transfers
1200-08-36-.16	Policies and Procedures for Health Care Decision-Making
1200-08-36-.18	Appendix I

(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 1200-08-01
Standards for Hospitals
Amendments

Rule 1200-08-01-.01 Definitions is amended by deleting paragraphs (24), (60), (67), and (89) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (25), (54), (55), (69), and (70), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(25) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(54) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(55) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(69) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(70) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-255, 68-11-1802, 68-57-101, 68-57-102 and 68-57-105.

Rule 1200-08-01-.07 Optional Hospital Services is amended by deleting subparagraph (1)(j) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(j) shall read:

(j) Surgical technologists shall demonstrate continued competence in order to perform their professional duties in surgical technology. The employer shall maintain evidence of the continued competence of such individuals. Continued competence activities may include but are not limited to continuing education, in-service training, or certification renewal. Persons qualified to be employed as surgical technologists shall complete fifteen (15) hours of continuing education or contact hours annually. Current certification by the National Board of Surgical Technology and Surgical Assisting shall satisfy this requirement.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-57-101, 68-57-102, 68-57-104 and 68-57-105.

Rule 1200-08-01-.13 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-01-.15 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name
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.	First Name/Middle Initial
	Date of Birth

Section A *Check One Box Only*

CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.

☐ Resuscitate(CPR) ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)**

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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.**

☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.**

☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.**

*Other Instructions:*_____

Section C *Check One*

ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.

☐ No artificial nutrition by tube.
☐ Defined trial period of artificial nutrition by tube.
☐ Long-term artificial nutrition by tube.

*Other Instructions:*_____

Section D *Must be Completed*

Discussed with:	**The Basis for These Orders Is:** (Must be completed)
☐ Patient/Resident	☐ Patient's preferences
☐ Health care agent	☐ Patient's best interest (patient lacks capacity or preferences unknown)
☐ Court-appointed guardian	☐ Medical indications
☐ Health care surrogate	☐ (Other) _____
☐ Parent of minor	
☐ Other: _____(Specify)	

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date**	**MD/NP/CNS/PA** **Phone Number:**
	NP/CNS/PA (Signature at Discharge)	

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)
Agent/Surrogate	Relationship	Phone Number

Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

Chapter 1200-08-02
Standards for Prescribed Child Care Centers
Amendments

Rule 1200-08-02-.01 Definitions is amended by deleting paragraphs (19), (57), and (75) in their entirety and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting

newly numbered paragraphs (20), (46), (47), (60), and (61), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(20) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(46) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(47) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(60) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(61) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-216, 68-11-224, and 68-11-1802.

Rule 1200-08-02-.12 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-02-.14 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name
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.	First Name/Middle Initial
	Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ Resuscitate(CPR) ☐ Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death) 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____

Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

Chapter 1200-08-06
Standards for Nursing Homes
Amendments

Rule 1200-08-06-.01 Definitions is amended by deleting paragraphs (15) and (68) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (16), (40), (41), (52), and (53), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(16) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(40) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(41) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(52) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(53) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-234, 68-11-1802, and 71-6-121.

Rule 1200-08-06-.13 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities,

or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-06-.15 Nurse Aide Training and Competency Evaluation is amended by deleting part (2)(c)4 and substituting instead the following language, and is further amended by deleting part (2)(c)5 in its entirety, so that as amended, new part (2)(c)4 shall read:

4. After the third year of consecutive test pass rates below seventy-percent (70%), the program shall be closed for no less than twenty-four (24) months. All students enrolled in the program shall be allowed to complete the course. Any program closed may appeal the closure to the Board pursuant to the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5, Part 3.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, and 68-11-804.

Rule 1200-08-06-.16 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name
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.	First Name/Middle Initial
	Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ Resuscitate(CPR) ☐ Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death) 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *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/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date NP/CNS/PA (Signature at Discharge)	MD/NP/CNS/PA Phone Number:

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

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

Rule 1200-08-10-.01 Definitions is amended by deleting paragraphs (20), (49), (54), and (70) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (21), (47), (48), (56), and (57), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(21) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(47) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(48) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(56) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(57) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-216, 68-11-224, 68-11-1802, 68-57-101, 68-57-102 and 68-57-105.

Rule 1200-08-10-.06 Basic Services is amended by deleting subparagraph (1)(l) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(l) shall read:

(l) Surgical technologists shall demonstrate continued competence in order to perform their professional duties in surgical technology. The employer shall maintain evidence of the continued competence of such individuals. Continued competence activities may include but are not limited to continuing education, in-service training, or certification renewal. Persons qualified to be employed as surgical technologists shall complete fifteen (15) hours of continuing education or contact hours annually. Current certification by the National Board of Surgical Technology and Surgical Assisting shall satisfy this requirement.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68, 68-11-209, 68-11-216, 68-57-101, 68-57-102, 68-57-104, and 68-57-105.

Rule 1200-08-10-.06 Basic Services is amended by deleting subparagraph (1)(n) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(n) shall read:

(n) Properly executed informed consent, advance directive, if available, and organ donation forms, if available, must be in the patient's chart before surgery, except in emergencies.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68, 68-11-209, 68-11-216, 68-57-101, 68-57-102, 68-57-104, and 68-57-105.

Rule 1200-08-10-.06 Basic Services is amended by deleting subparagraph (1)(o) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(o) shall read:

(o) Adequate equipment and supplies must be available as determined by the governing body and the medical staff, and must meet the current acceptable standards of practice in the ASTC industry. In conjunction with their governing body and the medical staff, the facility shall develop policies and procedures specifying the types of emergency equipment that are appropriate for the facility's patient population, and shall make the items immediately available at the ASTC to handle inter- or post-operative emergencies.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68, 68-11-209, 68-11-216, 68-57-101, 68-57-102, 68-57-104, and 68-57-105.

Rule 1200-08-10-.06 Basic Services is amended by deleting subparagraph (1)(p) in its entirety and re-lettering the remaining subparagraphs.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68, 68-11-209, 68-11-216, 68-57-101, 68-57-102, 68-57-104, and 68-57-105.

Rule 1200-08-10-.06 Basic Services is amended by adding new paragraph (12) which shall read:

(12) Invasive Procedures

(a) Only a medical doctor, licensed pursuant to *T.C.A. § 63-6-101 et seq.*, or an osteopathic physician, licensed pursuant to *T.C.A. § 63-9-101 et seq.*, who meet the following qualifications will be permitted to perform invasive procedures of the spine, spinal cord, sympathetic nerves of the spine or block of major peripheral nerves of the spine:

1. Board certified through the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA) or the American Board of Physician Specialties (ABPS)/American Association of Physician Specialists (AAPS) in one of the following medical specialties:

(i) Anesthesiology;

(ii) Neurological surgery, or Neuromusculoskeletal medicine;

(iii) Orthopedic surgery;

(iv) Physical medicine and rehabilitation;

(v) Radiology; or

(vi) Any other board certified physician who had completed an ABMS subspecialty board in pain medicine or completed an ACGME accredited pain fellowship;

2. A recent graduate in a medical specialty listed in part 1 not yet eligible to apply for ABMS, AOA, or ABPS/AAPS board certification; provided, there is a practice relationship with a medical doctor or an osteopathic physician who meets the requirements of part 1.;

3. A licensee who is not board certified in one of the specialties listed in part 1, but is board certified in a different ABMS, AOA, or ABPS/AAPS specialty and has completed a post-graduate training program in interventional pain management approved by the board;

4. A licensee who serves as a clinical instructor in pain medicine at an accredited Tennessee medical training program; or

5. A licensee who has an active pain management practice in a clinic accredited in outpatient interdisciplinary pain rehabilitation by the Commission on Accreditation of Rehabilitation Facilities or any successor organizations.

(b) An advanced practice nurse or physician assistant shall only perform invasive procedures involving any portion of the spine, spinal cord, sympathetic nerves of the spine or block of major peripheral nerves of the spine under the direct supervision of a medical doctor or an osteopathic

physician who meets the qualifications of Rule 1200-08-10-.06 (12)(a)1 or 3. Direct supervision is defined as being physically present in the center at the time the invasive procedure is performed.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68, 68-11-209, 68-11-216, 68-57-101, 68-57-102, 68-57-104, and 68-57-105.

Rule 1200-08-10-.13 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-10-.15 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ Resuscitate(CPR) ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____
Section D *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/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date NP/CNS/PA (Signature at Discharge)	MD/NP/CNS/PA Phone Number:

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

Amendments

Rule 1200-08-11-.01 Definitions is amended by deleting paragraph (48) in its entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (14), (35), (36), (41) and (42), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(14) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(35) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(36) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(41) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(42) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2; and

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-216, 68-11-224, and 68-11-1802.

Rule 1200-08-11-.12 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-11-.14 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Chapter 1200-08-15
Standards for Residential Hospices
Amendments

Rule 1200-08-15-.01 Definitions is amended by deleting paragraphs (18), (33), (52), and (81) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (19), (34), (49), (50), (61), and (62) so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(19) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(34) Hospice Services. As defined by T.C.A. § 68-11-201, "hospice services" means a coordinated program of care, under the direction of an identifiable hospice administrator, providing palliative and supportive medical and other services to hospice patients and their families in the patient's regular or temporary place of residence. Hospice services shall be available twenty-four (24) hours a day, seven (7) days a week pursuant to the patient's Hospice plan of care. A licensed hospice may provide services to a non-hospice patient; provided, that services to a non-hospice patient shall be limited to palliative care only.

(49) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(50) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(61) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(62) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.

Rule 1200-08-15-.06 Plan of Care is amended by deleting subparagraph (2)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2)(b) shall read:

(b) Review of plan. The plan must be reviewed and updated as the patient's condition changes, but at intervals of no more than fifteen (15) days, by the attending physician, the medical director or the physician's designee and the interdisciplinary group. These reviews must be documented.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-08-15-.13 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the

provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-15-.15 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ Resuscitate(CPR) ☐ Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death) 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____
Section D *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/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date NP/CNS/PA (Signature at Discharge)	MD/NP/CNS/PA Phone Number:

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Chapter 1200-08-24
Standards for Birthing Centers
Amendments

Rule 1200-08-24-.01 Definitions is amended by deleting paragraphs (14), (34), and (50) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (15), (34), (35), (40), and (41), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(15) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(34) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(35) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(40) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(41) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-255 and 68-11-1802.

Rule 1200-08-24-.12 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities,

or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-24-.14 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ Resuscitate(CPR) ☐ Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death) 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____

Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

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

Rule 1200-08-25-.02 Definitions is amended by deleting paragraphs (2), (12), (24), (32), and (36) in their entirety, inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (3), (8), (14), (25), (26), (30), (31) and (37), so that as amended, the new paragraphs shall read:

(1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(3) "Administering Medication" means the direct application of a single dose of medication to the body of a resident by injection, inhalation, ingestion, topical application or by any other means and the placement of a single dose of medication into a container.

(8) "Assistance with Self-Administration of Medication" means assistance in reading labels, opening medication containers or packaging, reminding residents of their medication, or observing the resident while taking medication in accordance with the plan of care.

(14) "Do-Not-Resuscitate Order (DNR)" means a written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(25) "Misappropriation of patient/resident property" means the deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(26) "Neglect" means the failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(30) "Physician Assistant" means a person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(31) "Physician Orders for Scope of Treatment" or "POST' means written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(37) "Self-Administration of Medication" means the ability to administer medicine to oneself without assistance other than receiving help with reading labels or with physically opening the container or packaging, being reminded of one's medication, or being observed while taking medication in accordance with the plan of care.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, and 68-11-211.

Rule 1200-08-25-.06 Administration is amended by deleting parts (5)(b)1 and (5)(b)3 but not its subparts, and substituting instead the following language, so that as amended, the new parts (5)(b)1 and (5)(b)3 shall read:

1. The offer of influenza vaccination to all staff and independent practitioners or acceptance of documented evidence of vaccination from another vaccine source or facility. The ACLF will encourage all staff and independent practitioners to obtain an influenza vaccination.

3. Education of all employees about the following:

Authority: T.C.A. §§ 39-17-1804, 39-17-1805, 68-3-511, 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-254, 68-11-268, and 71-6-121.

Rule 1200-08-25-.07 Services Provided is amended by deleting subparagraph (1)(c) but not its parts and substituting instead the following language, so that as amended, the new subparagraph (1)(c) shall read:

(c) Intravenous medications may only be administered to:

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-261.

Rule 1200-08-25-.07 Services Provided is amended by deleting paragraph (6) and all of its subparagraphs, and substituting instead the following language, so that as amended, the new paragraph (6) shall read:

(6) An ACLF shall dispose of medications as follows:

(a) Upon discharge of a resident, unused prescription medication shall be released to the resident, the resident's family member, or the resident's legal representative, unless specifically prohibited by the attending physician.

(b) Upon death of a resident, unused prescription medication must be destroyed in the manner outlined, and by the individuals designated, in the facility's medication disposal policy, unless otherwise requested by the resident's family member or the resident's legal representative and accompanied by a written order by a physician. The ACLF's medication disposal policy shall be written in accordance with current FDA or current DEA medication disposal guidelines.

(c) The ACLF shall properly dispose of prescription medication administered by the facility in accordance with the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines.

(d) The ACLF may dispose of prescription medication that is self-administered by the resident according to the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines, or the facility may provide information to the resident's family member or the resident's legal representative regarding the proper method to dispose of the medication.

(e) If the resident is a hospice patient, hospice shall be responsible for disposing of the prescription medication upon the death of the resident.

(f) The ACLF's medication disposal policy shall be performed by one (1) licensed health care professional and either the facility's administrator, a second licensed health care professional, or a medication aide certified.

(g) The ACLF's medication disposal policy shall also address the disposal of scheduled drugs, non-scheduled drugs, and devices that are misbranded, expired, deteriorated, not kept under proper conditions, and kept in containers with illegible or missing labels.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-261.

Rule 1200-08-25-.08 Admissions, Discharges, and Transfers is amended adding new subparagraph (6)(k), which shall read:

(k) Prior to the admission of a resident or prior to the execution of a contract for the care of a resident (whichever occurs first), each ACLF shall disclose in writing to the resident or to the resident's legal representative a copy of the medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-201(5), 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-263, and 68-11-266.

Rule 1200-08-25-.15 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

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

Rule 1200-08-25-.17 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.

☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)**

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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.**

☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.**

☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.**

*Other Instructions:*_____

Section C *Check One*

ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.

☐ No artificial nutrition by tube.
☐ Defined trial period of artificial nutrition by tube.
☐ Long-term artificial nutrition by tube.

*Other Instructions:*_____

Section D *Must be Completed*

Discussed with:	**The Basis for These Orders Is:** (Must be completed)
☐ Patient/Resident	☐ Patient's preferences
☐ Health care agent	☐ Patient's best interest (patient lacks capacity or preferences unknown)
☐ Court-appointed guardian	☐ Medical indications
☐ Health care surrogate	☐ (Other) _____
☐ Parent of minor	
☐ Other: _____(Specify)	

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)
Agent/Surrogate	Relationship	Phone Number
Health Care Professional Preparing Form	Preparer Title	Phone Number / Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

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

Rule 1200-08-26-.01 Definitions is amended by deleting paragraphs (16), (43), and (64) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (17), (43), (44), (51), and (52), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(17) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(43) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(44) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(51) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(52) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.

Rule 1200-08-26-.04 Administration is amended by deleting paragraph (9) in its entirety and substituting instead the following language, so that as amended, the new paragraph (9) shall read:

(9) An administrator shall serve no more than one (1) licensed home care organization unless that home care organization provides other categories of home care organization services under the same ownership and at the same location.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-17-1803, 39-17-1805, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-222, 68-11-268 and 71-6-121.

Rule 1200-08-26-.13 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an

informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-26-.15 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name
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.	First Name/Middle Initial
	Date of Birth

Section A Check One Box Only	CARDIOPULMONARY RESUSCITATION (CPR): **Patient has no pulse and is not breathing.** ☐ Resuscitate(CPR) ☐ Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death) 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C Check One	ARTIFICIALLY ADMINISTERED NUTRITION. **Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D 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/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date NP/CNS/PA (Signature at Discharge)	MD/NP/CNS/PA Phone Number:

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

Chapter 1200-08-27
Standards for Home Care Organizations Providing Hospice Services
Amendments

Rule 1200-08-27-.01 Definitions is amended by deleting paragraphs (17), (30), (45), and (69) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (18), (31), (42), (43), (53), and (54), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(18) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(31) Hospice Services. As defined by T.C.A. § 68-11-201, hospice services means a coordinated program of care, under the direction of an identifiable hospice administrator, providing palliative and supportive medical and other services to hospice patients and their families in the patient's regular or temporary place of residence. Hospice services shall be available twenty-four (24) hours a day, seven (7) days a week pursuant to the patient's Hospice plan of care. A licensed hospice services program may provide services to a non-hospice patient; provided, that services to a non-hospice patient shall be limited to palliative care only.

(42) Misappropriation of patient/resident property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(43) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(53) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(54) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.

Rule 1200-08-27-.06 Basic Agency Functions is amended by deleting paragraph (1) but not its subparagraphs, parts and subparts, and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

(1) An organization providing hospice services must ensure that substantially all core services are routinely provided directly by hospice employees. The hospice services program may contract for physician services. The hospice services program may use contracted staff for nursing services, medical social services, and counseling services if necessary to supplement hospice employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. If contracting is used, the hospice services program must maintain professional, financial, and administrative responsibility for the services and must assure that the qualifications of the individuals and services meet the requirements specified in this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-3-511, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-260 and 68-11-304.

Rule 1200-08-27-.06 Basic Agency Functions is amended by deleting subparagraph (2)(b) in its entirety and

substituting instead the following language, so that as amended, the new subparagraph (2)(b) shall read:

(b) Review of Plan. The plan must be reviewed and updated as the patient's condition changes, but at intervals of no more than fifteen (15) days, by the attending physician, the medical director or the physician's designee and interdisciplinary group. These reviews must be documented.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-3-511, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-260 and 68-11-304.

Rule 1200-08-27-.06 Basic Agency Functions is amended by adding new parts (7)(a)1, (7)(a)2, and (7)(a)3, which shall read:

1. Respite services shall be staffed in accordance with the patient's Hospice Plan of Care.

2. The Hospice Plan of Care will state whether a registered nurse is required to provide direct care to the hospice patient.

3. Respite services may be provided in an Assisted Care Living Facility so long as the provisions of Rule 1200-08-27-.06 (7)(b)-(g) are met.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-3-511, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-260 and 68-11-304.

Rule 1200-08-27-.13 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health

care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-27-.15 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ Resuscitate(CPR) ☐ Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death) 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

Agent/Surrogate	Relationship	Phone Number

Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

Chapter 1200-08-28
Standards for HIV Supportive Living Centers
Amendments

Rule 1200-08-28-.01 Definitions is amended by deleting paragraphs (18), (47), and (78) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (19), (44), (45), (57), and (58), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(19) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(44) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(45) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(57) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(58) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2; and

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-216, 68-11-224, and 68-11-1802.

Rule 1200-08-28-.13 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities,

or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-28-.15 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____

Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

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

Rule 1200-08-29-.01 Definitions is amended by deleting paragraphs (13) and (33) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (14), (33), (34) and (37) so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(14) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(33) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(34) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(37) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-226, and 68-11-303.

Rule 1200-08-29-.04 Administration is amended by deleting paragraphs (1), (2), and (3) in their entirety, and substituting the following language, and is further amended by inserting new paragraph (3) and renumbering the remaining paragraphs so that as amended the new paragraphs (1), (2), (3) and (4) shall read:

(1) Governing Body. The licensee shall assume full legal authority and responsibility for the operation of the agency. The governing body shall appoint a qualified administrator, arrange for professional advice, adopt and periodically review written bylaws or an acceptable equivalent, and oversee the management and fiscal affairs of the agency. The name and address of each officer, director, and owner shall be disclosed. If the agency is a corporation, all ownership interests of five (5) percent or more (direct or indirect) shall also be disclosed.

(2) Administrator. The administrator shall organize and direct the agency's ongoing functions; maintain ongoing communication between and among the governing body, the professional personnel and the staff; employ qualified personnel, ensure adequate staff education and evaluation for all personnel involved in direct care of the patient; ensure the accuracy of public information materials and activities; and implement an effective accounting system. A person with sufficient experience and training shall be authorized in writing to assume temporary duty during the administrator's short-term absence. Any change of administrators shall be reported to the Department within fifteen (15) days.

(3) An administrator shall serve no more than one (1) licensed home care organization unless that home care organization provides other categories of home care organization services under the same ownership and at the same location.

(4) Organization Structure. The agency's structure is such that responsibility and accountability for the program are clearly defined. An organizational chart (A) shows the relationship of the administrator to the governing body; (B) clearly identifies lines of supervision; and (C) accurately defines the chain of command for in-home personnel.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-17-1803, 39-17-1805, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-1-222, 68-11-226, 68-11-268 and 71-6-121.

Chapter 1200-08-30
Standards for Pediatric Emergency Care Facilities
Amendments

Rule 1200-08-30-.01 Definitions is amended by substituting the following language as new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (8), (25), (26), (31), and (32) so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting

physical harm, pain or mental anguish.

(8) Do-Not-Resuscitate order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(25) Misappropriation of patient/resident property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(26) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(31) Physician. A person currently licensed as such by the Tennessee Board of Medical Examiners or currently licensed by the Tennessee Board of Osteopathic Examination.

(32) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-209, and 68-11-251.

Rule 1200-08-30-Table 1 Part 2/7 of Table 1 is amended by deleting the reference to "shiley" tubes, so that as amended, Part 2/7 of Table 1 shall read:

TABLE 1. PEDIATRIC EMERGENCY CARE FACILITIES				
Part 2/7	FACILITY DESIGNATION/LEVEL			
2. EQUIPMENT	CRPC	General	Primary	Basic
EMS communication equipment*	E	E	E	E
Organized emergency cart*	EED&EPI	EED	EED	EED
Printed drug doses/tape	EED&EPI	EED	EED	EED
Monitoring devices				
ECG monitor/defibrillator with pediatric paddles or pads 0-400 joules and hard copy capabilities	EED&EPI	EED	EH	EH
Pulse oximeter (adult/pediatric probes)	EED&EPI	EED	EH	EH
Blood pressure cuffs (infant, child, adult, thigh)	EED&EPI	EED	EED	EED
Rectal thermometer probe (28 deg. – 42 deg. C)	EED&EPI	EED	EH	EH
Otoscope, ophthalmoscope, stethoscope	EED&EPI	EED	EED	EED
Cardiopulmonary monitor with pediatric and hard copy capability, visible/audible alarms, routine testing and maintenance	EED&EPI	EED	EED	EH
Doppler and noninvasive blood pressure monitoring (infant, child, adult)	EED&EPI	EED	EH	
End tidal CO2 detector	EED	EED	EED	EED
End tidal CO2 monitor	EED&EPI	EH	SE	
Monitor for central venous pressure, arterial lines, temperature	EH&EPI	EH	SE	
Monitor for pulmonary arterial pressure and intracranial pressure	EPI			
Transportable monitor	EED&EPI	EED	EH	EH
Airway control/ventilation equipment				
Bag-valve-mask device: pediatric (450 mL), and adult (1000 mL) with oxygen reservoir and without pop-off valve. Infant, child, and adult masks	EED&EPI	EED	EED	EED
Oxygen delivery device with flow meter	EED&EPI	EED	EED	EED
Clear oxygen masks, standard and non-rebreathing (neonatal to adult size)	EED&EPI	EED	EED	EED
Nasal cannula (infant, child, adult)	EED&EPI	EED	EED	EED
PEEP valve	EED&EPI	EED		
Suction devices-catheters 6-14 fr, yankauer-tip/suction equipment	EED&EPI	EED	EED	EED
Nasal airways (infant, child, adult)	EED&EPI	EED	EED	EED

Nasogastric tubes (sizes 6-16 fr)	EED&EPI	EED	EED	EED
Laryngoscope handle and blades:				
- curved 2,3	EED&EPI	EED	EED	EED
- straight or Miller 0,1,1-1/2, 2,3	EED&EPI	EED	EED	EED
Endotracheal tubes:				
- uncuffed (2.5-5.5)	EED&EPI	EED	EED	EED
- cuffed (6.0-9.0) [all pediatric sizes EPI]	EED&EPI	EED	EED	EED
Stylets for endotracheal tubes (pediatric, adult)	EED&EPI	EED	EED	EED
Lubricant, water soluble	EED	EED	EED	EED
Magill forceps (pediatric, adult)	EED	EED	EED	EED
Spirometers, chest physiotherapy and suctioning equipment	EPI			
Continuous oxygen analyzers with alarms	EPI			
Inhalation therapy equipment	EPI			
Tracheostomy tubes (sizes 0-6)	EED	EH	EH	
Oxygen blender	EED&EPI	EED	EED	EED
Pediatric endoscopes and bronchoscopes available	EH	EH		
Respired gas humidifiers and bronchoscopes available	EPI			
Pediatric ventilators	EPI	EH		
Difficult airway kit	EED&EPI	EED	SE	SE
Vascular access supplies				
Arm boards (infant, child, and adult sizes)	EED&EPI	EED	EED	EED
Butterflies (19-25 gauge)	EED&EPI	EED	EED	EED
Catheters for intravenous lines (16-24 gauge)	EED&EPI	EED	EED	EED
Needles (18-27 gauge)	EED&EPI	EED	EED	EED
Intraosseous needles	EED&EPI	EED	EED	EED
Umbilical vessel catheters (3,5 fr) and cannulation tray	EED	EED	EH	EH
IV administration sets and extension tubing with calibrated chambers	EED&EPI	EED	EED	EED
Extension tubing, stopcocks, T-connectors	EED&EPI	EED	EED	EED
Infusion device able to regulate rate and volume of infusate	EED&EPI	EED	EED	EED
Isotonic balanced salt solution and D[5[0.5 normal saline	EED	EED	EED	EED
Central venous access utilizing Seldinger technique (4-7 fr)	EED&EPI	EED	EED	
IV fluid/blood warmer	EED&EPI	EED	EH	
Blood gas kit	EED	EED	EH	
Rapid infusion pumps	EED&EPI	EH		

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-209, and 68-11-251.

Chapter 1200-08-32
Standards for End Stage Renal Dialysis Clinics
Amendments

Rule 1200-08-32-.01 Definitions is amended by deleting paragraphs (18), (49), (54), and (69) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (19), (44), (45), (56), and (57), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(19) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(44) Misappropriation of patient/resident property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(45) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(56) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(57) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-224, and 68-11-1802.

Rule 1200-08-32-.13 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health

care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-32-.15 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ Resuscitate(CPR) ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

Agent/Surrogate	Relationship	Phone Number

Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

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

Rule 1200-08-34-.01 Definitions is amended by deleting paragraphs (34) and (55) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (16), (34), (35), (44), and (45) so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(16) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in

cardiac or respiratory arrest in accordance with accepted medical practices.

(34) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(35) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(44) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(45) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.

Rule 1200-08-34-.04 Administration is amended by deleting paragraph (7) in its entirety and substituting instead the following language, so that as amended, the new paragraph (7) shall read:

(7) An administrator shall serve no more than one (1) licensed home care organization unless that home care organization provides other categories of home care organization services under the same ownership and at the same location.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 39-17-1803, 39-17-1805, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-222, 68-11-268 and 71-6-121.

Rule 1200-08-34-.13 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician orders for scope of treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.

Rule 1200-08-34-.15 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name
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.	First Name/Middle Initial
	Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____

Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

Chapter 1200-08-35
Standards for Outpatient Diagnostic Centers
Amendments

Rule 1200-08-35-.01 Definitions is amended by deleting paragraphs (21), (51), (56) and (71) in their entirety, and inserting new paragraph (1) and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (22), (48), (49), (58), and (59), so that as amended, the new paragraphs shall read:

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(22) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(48) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(49) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(58) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(59) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-216, 68-11-224 and 68-11-1802.

Rule 1200-08-35-.13 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities,

or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1803, 68-11-1804, 68-11-1805, 68-11-1806 through 68-11-1810, 68-11-1813, and 68-11-1814.

Rule 1200-08-35-.15 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____

Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

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

Rule 1200-08-36-.01 Definitions is amended by deleting paragraphs (1) and (4) in their entirety and substituting instead the following language and is further amended by deleting paragraphs (13), (26), (28), (35) and (42) in their entirety and renumbering the remaining paragraphs, and is further amended by inserting newly numbered paragraphs (10), (14), (27), (28), (33), (34) and (38), so that as amended, the new paragraphs shall read:

(1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

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

(10) "Assistance with self-administration of medication" means assistance in reading labels, opening medication containers or packaging, reminding residents of their medication, or observing the resident while taking medication in accordance with the plan of care.

(14) "Do-not-resuscitate order (DNR)" means a written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(27) "Misappropriation of patient/resident property" means the deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(28) "Neglect" means the failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(33) "Physician assistant" means a person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(34) "Physician orders for scope of treatment" or "POST' means written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(38) "Self-Administration of Medication" means the ability to administer medicine to oneself without assistance other than receiving help with reading labels or with physically opening the container or packaging, being reminded of one's medication, or being observed while taking medication in accordance with the plan of care.

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

Rule 1200-08-36-.06 Services Provided is amended by deleting paragraph (4) and its subparagraphs in their entirety, and substituting instead the following language, so that as amended, the new paragraph (4) and its subparagraphs shall read:

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

(a) Upon discharge of a resident, unused prescription medication shall be released to the resident, the resident's family member, or the resident's legal representative, unless specifically prohibited by the attending physician.

(b) Upon the death of a resident, unused prescription medication must be destroyed in the manner

outlined and by the individuals designated in the facility's medication disposal policy, unless otherwise requested by the resident's family member or the resident's legal representative and accompanied by a written order by a physician. The ACH's medication disposal policy shall be written in accordance with current FDA or current DEA medication disposal guidelines.

(c) The ACH shall properly dispose of prescription medication administered by the facility in accordance with the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines.

(d) The ACH may dispose of prescription medication that is self-administered by the resident according to the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines, or the facility may provide information to the resident's family member or the resident's legal representative regarding the proper method to dispose of the medication.

(e) If the resident is a hospice patient, hospice shall be responsible for disposing of the prescription medication upon death of the resident.

(f) The ACH's medication disposal policy shall also address the disposal of scheduled drugs, non-scheduled drugs, and devices that are misbranded, expired, deteriorated, not kept under proper conditions, and kept in containers with illegible or missing labels.

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

Rule 1200-08-36-.07 Admissions, Discharges, and Transfers is amended by deleting subpart (1)(g)3(vi) and substituting instead the following language and is further amended by adding new subpart (1)(g)3(vii), so that as amended, new subparts (1)(g)3(vi) and (1)(g)3(vii) shall read:

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

(vii) A copy of the medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines, for resident's review and signature.

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

Rule 1200-08-36-.16 Policies and Procedures for Health Care Decision-Making is amended by deleting paragraph (30) and its subparagraphs, parts and subparts in their entirety and substituting instead the following language, so that as amended, the new paragraph (30) shall read:

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities,

or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

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

Rule 1200-08-36-.18 Appendix I is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

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

(This space intentionally left blank)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

DO NOT ALTER THIS FORM

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 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)
Carissa S. Lynch, Pharm.D.	X				
Michael R. Miller	X				
Janice M. Hill, RN	X				
Robert Gordon	X				
John A. Marshall	X				
Jennifer Gordon-Maloney, DDS	X				
Roy King, M.D.				X	
Sherry Robbins, M.D.	X				
Annette Marlar	X				
Robert C. Breeden	X				
Sylvia J. Burton	X				
Betsy Cummins	X				
David Rhodes				X	
Joshua A. Crisp	X				
Betty S. Hodge				X	
Bobby Wood	X				
Larry Arnold, M.D., Chairman				X	
Jim Shulman, Executive Director Commission on Aging and Disability	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 (board/commission/ other authority) on 09/10/2014 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *05/23/2014 (mm/dd/yy)*

Rulemaking Hearing(s) Conducted on: (add more dates). *09/10/14 (mm/dd/yy)*

Date: 3/19/15

Signature: Kyonzte Hughes-Toombs

Name of Officer: Kyonzte Hughes-Toombs

Title of Officer: Assistant General Counsel
Department of Health

Subscribed and sworn to before me on: 3-19-15

Notary Public Signature: Suzanne Mechkowski

My commission expires on: MY COMMISSION EXPIRES APRIL 19, 2017

SUZANNE MECHKOWSKI STATE OF TENNESSEE NOTARY PUBLIC SUMNER COUNTY

Department of Health, Division of Health Care Facilities Rules
Chapters 1200-08-01, 1200-08-02, 1200-08-06, 1200-08-10, 1200-08-11, 1200-08-15, 1200-08-24, 1200-08-25, 1200-08-26, 1200-08-27, 1200-08-28, 1200-08-29, 1200-08-30, 1200-08-32, 1200-08-34, 1200-08-35, and 1200-08-36
Standards for Health Care Facilities

All proposed 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.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
3/25/2015
Date

Department of State Use Only

Filed with the Department of State on: 3/27/15
Effective on: 6/25/15

Tre Hargett
Tre Hargett
Secretary of State

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2015 MAR 27 PM 3:59
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.

September 10, 2014
Rulemaking Hearing Comments

There were two comments received during the rulemaking hearing.

The first comment was from Judy Eads, President of the End of Life Partnership, who requested that the Board make three changes to the Physician Orders for Scope of Treatment form, which is attached to the last rule in all but two rule chapters. Ms. Eads suggested the Board remove the "or" in the first sentence of Section A as well as the phrase "Must Select Full Treatment in Section B). Ms. Eads also requested the Board to remove the second signature line for Nurse Practitioners, Certified Nurse Specialists and Physician Assistants and for the Board to add these terms to the Physician's signature line. She posited that this change would be clearer and leave no question remaining as to who can sign the form or if the physician's signature will always be required (which it is not). Ms. Eads also supported the remaining rule amendments.

The Board voted to accept all the changes requested by Ms. Eads.

The second and last person to address the Board was Yarnell Beatty, representing the Tennessee Medical Association, who spoke in support of adoption of the proposed rules and expressed particular support for the amendments to invasive procedures. He supported the Board's attempt to make the standards for invasive procedures the same across the board.

New rules, 1200-08-29-.15 and .16 as well as rules 1200-08-30-.06 and .07, were deleted because the Board did not previously approve those changes.

The Board accepted these deletions.

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 extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

These rule amendments do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule or rules.

These rule amendments exhibit clarity, conciseness, and lack of ambiguity.

(3) The establishment of flexible compliance and/or reporting requirements for small businesses.

These rule amendments do not establish flexible compliance and/or reporting requirements for small businesses.

(4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.

These rule amendments do not establish friendly schedules or deadlines for compliance and /or reporting requirements for small businesses.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

These rule amendments do not consolidate or simplify reporting requirements for small businesses.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

These rule amendments do not establish performance standards for small business as opposed to design or operation standards.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

These rules amendments do not create barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Health Care Facilities

Rulemaking hearing date: September 10, 2014

1. **Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

   These rule amendments affect the various health care facilities and medical practitioners in those facilities, or contracting with those facilities as well as residents and consumers of those medical services. Those various health care facilities and medical practitioners will bear the cost of and/or directly benefit from the proposed rule.

2. **Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

   These rule amendments may minimally increase expenditures for reporting, recordkeeping, and other administrative costs. The amendments create additional continuing education classes for surgical technicians pursuant to 2013 Public Chapter 391 and further require surgical technicians to complete informed consent forms, advance directive forms, and organ donation forms prior to surgery. Also, the rule amendments will require forms to be completed before Assisted Care Living Facilities can dispose of or release medication to the resident's legal representative upon the resident's death.

3. **Statement of the probable effect on impacted small businesses and consumers:**

   Aside from the minimal costs increases for reporting, these rule amendments will have a positive effect on both businesses and consumers. Business will benefit from the clarification presented in the amendments which closely detail the procedures required for specific functions performed by the various health care facilities including: medication disposal, continuing education, and scope of treatment.

   Consumers will likewise benefit from the rule amendments because the necessary pre-operation forms will be properly completed before surgery and hospital staff will no longer have to wait on a physician to have a scope of treatment implemented because a nurse practitioner or physician assistant, acting within the respective scope of practice, may sign the form.

4. **Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

   There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule.

5. **Comparison of the proposed rule with any federal or state counterparts:**

   Federal: None.

   State: None.

6. **Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

   These rule amendments do not provide for the exemption of small businesses.

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)

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 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;

These amendments will change the definitions for abuse, misappropriation of resident belongings, and neglect in all of the above-stated sections.

Amendments to rule 1200-08-06-.15 will require the closure of nurse aid training programs that fall below a seventy percent pass rate after three consecutive years. Those students currently enrolled in the program would be allowed to finish. Any program that is closed may appeal the closure to the Board.

Amendments to Rules 1200-08-01-.07 and 1200-08-10-.06 will require surgical technicians to complete fifteen hours of continuing education credits annually per 2013 Public Chapter No. 391.

Amendments to Rule 1200-08-10-.06 will require completion of forms including informed consent forms, advance directive forms, and organ donation forms prior to surgery except in the event of emergencies. Also, the rule amendment modifies the list of equipment deemed to be adequate under surgical services. Finally, new provisions in 1200-08-10-.06 set out who can perform certain invasive spinal procedures in an ASTC.

Rules 1200-08-15-.01 and 1200-08-27-.01 will amend definitions for "Hospice Services.

Rules 1200-08-15-.06(b) and 1200-08-27-.06(b) are being amended to allow a fifteen (15), rather than fourteen (14) day maximum interval in which a patient's treatment plan must be reviewed.

The amendments to Rule 1200-08-25 will require facilities to offer and encourage all staff and independent practitioners to obtain an influenza vaccination. They will also amend the definition of "administering medication," and add new definitions for "assistance with self-administration of medication" and "self-administration of medication.

Amendments to rules 1200-08-25.07 and 1200-08-36.06 will require the facility to dispose of the medication in the manner outlined in their medication disposal policy which shall comply with the current FDA or current DEA disposal guidelines without a request from a family member or a legal representative.

Amendments to rule 1200-08-27-.06 Basic Agency Functions will allow the agency to contract for physician services.

Amendments to rule 1200-08-29-.04 will replace the word "manager" with "administrator" under Definitions and Administration.

Pursuant to 2013 Public Chapter No. 254, the Board seeks to amend the current rules regarding policies and procedures for health care decision-making applicable to all health care facilities governed by rule 1200-08 by deleting references to universal do not resuscitate orders and using in its stead the title, "Physician Orders for Scope of Treatment". The proposed rule amendment gives the physician, physician's assistant, nurse practitioner or clinical nurse specialist the authority to issue the orders for scope of treatment if the necessary relationship is established. Newly proposed paragraph (e) provides the caveat that nothing in these rules shall authorize the withholding of other medical interventions or therapies deemed necessary to provide comfort care or to alleviate pain. Definitions are also being amended to remove "universal do not resuscitate orders" and add a definition for "physicians orders for scope of treatment."

(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;

2013 Public Chapter No. 391: requires surgical technicians to complete fifteen hours of continuing education credits annually

2013 Public Chapter No. 254: gives the physician, physician's assistant, nurse practitioner or clinical nurse specialist the authority to issue the orders for scope of treatment if the necessary relationship is established.

(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;

These rule amendments affect the various health care facilities and medical practitioners in those facilities, or contracting with those facilities as well as residents and consumers of those medical services. Those various health care facilities and medical practitioners will bear the cost of and/or directly benefit from the proposed rule.

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

None.

(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;

These rule amendments should not result in any increase or decrease in state and local government revenues and expenditures.

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

Kyonzte Hughes-Toombs, Assistant General Counsel, Department of Health

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

Kyonzte Hughes-Toombs, Assistant General Counsel, Department of Health

(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

Office of General Counsel, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611; Kyonzte.Hughes-Toombs@tn.gov.

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

None.

RULES
OF
TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-01
STANDARDS FOR HOSPITALS

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1200-08-01-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ Acceptable Plan of Correction. The Licensing Division shall approve a hospital's acceptable plan to correct deficiencies identified during an on-site survey conducted by the Survey Division or its designated representative. The plan of correction shall be a written document and shall provide, but not limited to, the following information:

(a) How the deficiency will be corrected.

(b) Who will be responsible for correcting the deficiency.

(c) The date the deficiency will be corrected.

(d) How the facility will prevent the same deficiency from re-occurring.

(3) ~~(2)~~ Adult. An individual who has capacity and is at least 18 years of age.

(4) ~~(3)~~ Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) ~~(4)~~ Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) ~~(5)~~ Board. The Tennessee Board for Licensing Health Care Facilities.

(7) ~~(6)~~ Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient to make health care decisions while having the capacity to do so. A patient shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient shall have the burden of proving lack of capacity.

(Rule 1200-08-01-.01, continued)

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

(9)~~(8)~~ Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.

(10)~~(9)~~ Certified Nurse Practitioner. A person who is licensed as a registered nurse and has further been issued a certificate of fitness to prescribe and/or issue legend drugs by the Tennessee Board of Nursing.

(11)~~(10)~~ Certified Registered Nurse Anesthetist. A registered nurse currently licensed by the Tennessee Board of Nursing who is currently certified as such by the American Association of Nurse Anesthetists.

(12)~~(11)~~ Certified Respiratory Therapist. A person currently certified as such by the Tennessee Board of Medical Examiners' Council on Respiratory Care.

(13)~~(12)~~ Certified Respiratory Therapy Technician. A person currently certified as such by the Tennessee Board of Medical Examiners' Council on Respiratory Care.

(14)~~(13)~~ Clinical Laboratory Improvement Act (CLIA). The federal law requiring that clinical laboratories be approved by the U.S. Department of Health and Human Services, Health Care Financing Administration.

(15)~~(14)~~ Collaborative Practice. The implementation of the collaborative plan that outlines procedures for consultation and collaboration with other health care professional, e.g., licensed physicians and mid-level practitioners.

(16)~~(15)~~ Collaborative Plan. The formal written plan between the mid-level practitioners and a licensed physician.

(17)~~(16)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(18)~~(17)~~ Competent. A patient who has capacity.

(19)~~(18)~~ Critical Access Hospital. A hospital located in a rural area, certified by the Department as being a necessary provider of health care services to residents of the area, which makes available twenty-four (24) hour emergency care; is a designated provider in a rural health network; provides not more than twenty-five (25) acute care inpatient beds for providing inpatient care not to exceed an annual average of ninety-six (96) hours, and has a quality assessment and performance improvement program and procedures for utilization review. If swing-bed approval has been granted, all twenty-five (25) beds can be used interchangeably for acute or Skilled Nursing Facility (SNF/swing-bed) level of care services.

(20)~~(19)~~ Dentist. A person currently licensed as such by the Tennessee Board of Dentistry.

(21)~~(20)~~ Department. The Tennessee Department of Health.

(22)~~(21)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the

(Rule 1200-08-01-.01, continued)

absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(23)~~(22)~~ Designation. An official finding and recognition by the Department of Health that an acute care hospital meets Tennessee State Rural Health Care Plan requirements to be a Critical Access Hospital.

(24)~~(23)~~ Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners. Persons exempt from licensure shall be registered with the American Dietetics Association pursuant to T.C.A. §63-25-104.

~~(24) Do Not Resuscitate (DNR) Order. An order entered by the patient's treating physician in the patient's medical records which states that in the event the patient 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.~~

(25) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(26)~~(25)~~ Electronic Signature. The authentication of a health record document or documentation in an electronic form achieved through electronic entry of an exclusively assigned, unique identification code entered by the author of the documentation.

(27)~~(26)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(28)~~(27)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(29)~~(28)~~ Graduate Registered Nurse Anesthetist. A registered nurse currently licensed in Tennessee who is a graduate of a nurse anesthesia educational program that is accredited by the American Association of Nurse Anesthetist's Council on Accreditation of Nurse Anesthesia Educational Programs and awaiting initial certification examination results, provided that initial certification is accomplished within eighteen (18) months of completion of an accredited nurse anesthesia educational program.

(30)~~(29)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(31)~~(30)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state or federal regulations.

(32)~~(31)~~ Health Care. 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).

(33)~~(32)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(34)~~(33)~~ Health Care Decision-maker. In the case of a patient who lacks capacity, the patient's health care decision-maker is one of the following: the patient's health care agent as specified in an advance directive, the patient's court-appointed guardian or conservator with health care decision-making authority, the patient's surrogate as determined pursuant to Rule 1200-08-

(Rule 1200-08-01-.01, continued)

01-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(35) ~~(34)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(36) ~~(35)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(37) ~~(36)~~ Hospital. Any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with services of a physician or dentist, to one (1) or more nonrelated persons who may be suffering from deformity, injury or disease or from any other condition for which nursing, medical or surgical services would be appropriate for care, diagnosis or treatment. All hospitals shall provide basic hospital functions and may provide optional services as delineated in these rules. A hospital shall be designated according to its classification and shall confine its services to those classifications described below.

(a) General Hospital. To be licensed as a general hospital, the institution shall maintain and operate organized facilities and services to accommodate one or more non-related persons for a period exceeding twenty-four (24) hours for the diagnosis, treatment or care of such persons and shall provide medical and surgical care of acute illness, injury or infirmity and obstetrical care. All diagnosis, treatment and care shall be administered by or performed under the direction of persons currently licensed to practice the healing arts in the State of Tennessee. In addition, a general hospital must specifically provide:

1. An organized staff of professional, technical and administrative personnel.

2. A laboratory with sufficient equipment and personnel necessary to perform biochemical, bacteriological, serological and parasitological tests.

3. X-ray facilities which shall include, as a minimum requirement, a complete diagnostic radiographic unit.

4. A separate surgical unit which shall include, as minimum requirements, one operating room, a sterilizing room, a scrub-up area and workroom.

5. Obstetrical facilities which shall include, as minimum requirements, one delivery room, a labor room, a newborn nursery, an isolation nursery, and patient rooms designated exclusively for obstetrical patients.

6. An emergency department in accordance with rule 1200-08-01-.07(5) of these standards and regulations.

(b) Satellite Hospital. A satellite hospital may be licensed with a parent hospital upon approval by the Board for Licensing Health Care Facilities when they are on separate premises and are operated under the same management.

(c) Chronic Disease Hospital. To be licensed as a chronic disease hospital, the institution shall be devoted exclusively to the diagnosis, treatment or care of persons needing medical, surgical or rehabilitative care for chronic or long-term illness, injury, or infirmity. The diagnosis, treatment or care shall be administered by or performed under the direction of persons currently licensed to practice the healing arts in the State of Tennessee. A chronic disease hospital shall meet the requirements for a general hospital except that obstetrical facilities are not required and, if the hospital provides no surgical services, an emergency department is not required.

(Rule 1200-08-01-.01, continued)

(d) Orthopedic Hospital. To be licensed as an orthopedic hospital, the institution shall be devoted primarily to the diagnosis and treatment of orthopedic conditions. An orthopedic hospital shall meet the requirements for a general hospital except that obstetrical services are not required and, if the hospital provides no surgical services, an emergency department is not required.

(e) Pediatric Hospital. To be licensed as a pediatric hospital, the institution shall be devoted primarily to the diagnosis and treatment of pediatric cases and have on staff professional personnel especially qualified in the diagnosis and treatment of the diseases of children. A pediatric hospital shall meet the requirements of a general hospital except that obstetrical facilities are not required and if the hospital provides no surgical services, an emergency department is not required.

(f) Eye, Ear, Nose, and Throat Hospital or any one of these. To be licensed as an eye, ear, nose and throat hospital, the institution shall be devoted primarily to the diagnosis and treatment of the diseases of the eye, ear, nose, and throat. The hospital shall have on staff professional personnel especially qualified in the diagnosis and treatment of diseases of the eye, ear, nose and throat. An eye, ear, nose and throat hospital shall meet the requirements for a general hospital except that obstetrical facilities are not required and, if the hospital provides no surgical services, an emergency department is not required.

(g) Rehabilitation Hospital. To be licensed as a rehabilitation hospital, the institution shall be devoted primarily to the diagnosis and treatment of persons requiring rehabilitative services. A rehabilitation hospital shall meet the requirement of a general hospital except that radiology services, a surgical unit, obstetrical facilities, and an emergency department are not required.

(38) ~~(37)~~ Hospitalization. The reception and care of any person for a continuous period longer than twenty-four (24) hours, for the purpose of giving advice, diagnosis, nursing service or treatment bearing on the physical health of such persons, and maternity care involving labor and delivery for any period of time.

(39)~~(38)~~ Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(40)~~(39)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(42)~~(41)~~ Involuntary Transfer. The movement of a patient between hospitals, without the consent of the patient, the patient's legal guardian, next of kin or representative.

(43)~~(42)~~ Justified Emergency. Includes, but is not limited to, the following events/ occurrences:

(a) An influx of mass casualties;

(b) Localized and/or regional catastrophes such as storms, earthquakes, tornadoes, etc. or,

(c) Epidemics or episodes of mass illness such as influenza, salmonella, etc.

(Rule 1200-08-01-.01, continued)

(44)~~(43)~~ Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(45)~~(44)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(46)~~(45)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(47)~~(46)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(48)~~(47)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part, which includes labor when delivery is imminent, when there is inadequate time to effect safe transfer to another hospital prior to delivery, or when a transfer may pose a threat to the health and safety of the patient or the unborn child.

(49)~~(48)~~ Medical Record. Medical histories, records, reports, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, x-rays, radiology interpretations. and other written electronics, or graphic data prepared, kept, made or maintained in a facility that pertains to confinement or services rendered to patients admitted or receiving care.

(50)~~(49)~~ Medical Staff. An organized body composed of individuals appointed by the hospital governing board that operates under bylaws approved by the governing body and is responsible for the quality of medical care provided to patients by the hospital. All members of the medical staff shall be licensed to practice in Tennessee, with the exception of interns and residents.

(51)~~(50)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or other medical or surgical treatments to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the patient's representative expresses the goals of the patient.

(52)~~(51)~~ Member of the Professional Medical Community. A professional employed by the hospital and on the premises at the time of a voluntary delivery.

(53)~~(52)~~ Mid-Level Practitioner. Either a certified nurse practitioner or a physician assistant.

(54) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(55) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(56)~~(53)~~ N.F.P.A. The National Fire Protection Association.

(Rule 1200-08-01-.01, continued)

(57)~~(54)~~ Nuclear Medicine Technologist. A person currently registered as such by the National Association for Nuclear Medicine Technology.

(58)~~(55)~~ Nurse Midwife. A person currently licensed by the Tennessee Board of Nursing as a registered nurse (R.N.) and qualified to deliver midwifery services or certified by the American College of Nurse-Midwives.

(59)~~(56)~~ Occupational Therapist. A person currently certified as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(60)~~(57)~~ Occupational Therapy Assistant. A person currently certified as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(61)~~(58)~~ Optometrist. A person currently licensed as such by the Tennessee Board of Optometry.

(62)~~(59)~~ Patient. Includes but is not limited to any person who is suffering from an acute or chronic illness or injury or who is crippled, convalescent or infirm, or who is in need of obstetrical, surgical, medical, nursing or supervisory care.

~~(60) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(63)~~(61)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(64)~~(62)~~ Personally Informing. A communication by any effective means from the patient directly to a health care provider.

(65)~~(63)~~ Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.

(66)~~(64)~~ Physical Therapist. A person currently certified as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(67)~~(65)~~ Physical Therapy Assistant. A person currently certified as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(68)~~(66)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

~~(67) Physician Assistant. A person who is licensed by the Tennessee Board of Medical Examiners and Committee on Physician Assistants and has obtained prescription writing authority pursuant to T.C.A. 63-19-107(2)(A).~~

(69) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(Rule 1200-08-01-.01, continued)

(70) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(71)~~(68)~~ Podiatrist. A person currently licensed as such by the Tennessee Board of Registration in Podiatry.

(72)~~(69)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(73)~~(70)~~ Psychologist. A person currently licensed as such by the Tennessee Board of Examiners in Psychology.

(74)~~(71)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(75)~~(72)~~ Radiological Technologist. A person currently registered as such by the American Society of Radiological Technologists.

(76)~~(73)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(77)~~(74)~~ Registered Health Information Administrator (RHIA). A person currently registered as such by the American Health Information Management Association.

(78)~~(75)~~ Registered Health Information Technician (RHIT). A person currently accredited as such by the American Health Information Management Association.

(79)~~(76)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(80)~~(77)~~ Satellite Hospital. A freestanding hospital licensed with a parent hospital that is on separate premises and operated under the same management.

(81)~~(78)~~ Shall or Must. Compliance is mandatory.

(82)~~(79)~~ Social Worker. A person who has at least a bachelor's degree in Social Work or related field, and preferably, two (2) years medical social work or other community based work experience.

(Rule 1200-08-01-.01, continued)

(83)~~(80)~~ Stabilize. To provide such medical treatment of the emergency medical condition as may be necessary to assure, within reasonable medical probability, that the condition will not materially deteriorate due to the transfer as determined by a physician or other qualified medical personnel when a physician is not readily available.

(84)~~(81)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(85)~~(82)~~ Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board.

(86)~~(83)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(87)~~(84)~~ Surgical Technologist. A person who works under supervision to facilitate the safe and effective conduct of invasive surgical procedures. This individual is usually employed by a hospital, medical office, or surgical center and supervised during the surgical procedure according to institutional policy and procedure to assist in providing a safe operating room environment that maximizes patient safety by performing certain tasks including, but not limited to:

(a) Preparation of the operating room and the sterile field for surgical procedures by preparing sterile supplies, instruments, and equipment using sterile technique;

(b) Preparation of the operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely; and

(c) Passing instruments, equipment or supplies to a surgeon, sponging or suctioning an operative site, preparing and cutting suture material, holding retractors, transferring but not administering fluids or drugs, assisting in counting sponges, needles, supplies, and instruments, and performing other similar tasks as directed during a surgical procedure.

(88)~~(88)~~ Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(89)~~(86)~~ Transfer. The movement of a patient between hospitals at the direction of a physician or other qualified medical personnel when a physician is not readily available but does not include such movement of a patient who leaves the facility against medical advice. The term does not apply to the commitment and movement of mentally ill and mentally retarded persons and does not apply to the discharge or release of a patient no longer in medical need of hospital care or to a hospital's refusal, after an appropriate medical screening, to render any medical care on the grounds that the person does not have a medical need for hospital care.

(90)~~(87)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

(91)~~(88)~~ Treating Physician. The physician selected by or assigned to the patient and who has the primary responsibility for the treatment and care of the patient. Where more than one physician shares such responsibility, any such person may be deemed to be the "treating physician."

(Rule 1200-08-01-.01, continued)

~~(89) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

(92)~~(90)~~ Voluntary Delivery. The action of a mother in leaving an unharmed infant aged seventy-two (72) hours or younger on the premises of a hospital with any hospital employee or member of the professional medical community without expressing any intention to return for such infant, and failing to visit or seek contact with such infant for a period of thirty (30) days thereafter.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-255, 68-11-1802, 68-57-101, 68-57-102 and 68-57-105.* ***Administrative History:*** *Original rule certified June 7, 1974. Amendment filed April 3, 1974; effective May 3, 1974. Amendment filed November 30, 1984; effective December 30, 1984. Repeal and new rule filed May 22, 1986; effective June 21, 1986. Amendment filed April 26, 1996; effective July 8, 1996. Amendment filed November 30, 1999; effective February 6, 2000. Repeal, except for Paragraphs (1), (5), (8), (10), (11), (13), (16), (29) and (37) as promulgated February 6, 2000, and new rule filed March 18, 2000; effective May 30, 2000. Amendment filed April 17, 2000; effective July 1, 2000. Amendment filed September 17, 2002; effective December 1, 2002. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendment filed August 27, 2004; effective November 10, 2004. Amendments filed September 6, 2005; effective November 20, 2005. Amendment filed February 23, 2006; effective May 9, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed February 22, 2010; effective May 23, 2010. Amendments filed March 18, 2010; effective June 16, 2010. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-01-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or state, county or local government unit, or division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any hospital without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the hospital.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee based on the number of hospital beds. The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients shall not be admitted to the hospital until a license has been issued. Applicants shall not hold themselves out to the public as being a hospital until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules and regulations including submission of all information required by T.C.A. §68-11-206(1), or as later amended, and of all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the facility.

(e) 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 individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(Rule 1200-08-01-.06, continued)

3. Hemoglobin or hematocrit;

4. Blood sugar;

5. Gram stain;

6. Examination of stool specimens for occult blood;

7. Pregnancy test;

8. Primary culturing for transmittal to a CLIA certified laboratory;

9. Sediment rate; and,

10. CBC.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-3-511, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed March 18, 2000; effective May 30, 2000. Amendment filed December 2, 2003; effective February 15, 2004. Amendment filed May 24, 2004; effective August 7, 2004. Amendment filed September 6, 2005; effective November 20, 2005. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed December 23, 2009; effective March 23, 2010. Amendment filed March 18, 2010; effective June 16, 2010.*

1200-08-01-.07 OPTIONAL HOSPITAL SERVICES.

(1) Surgical Services.

(a) If the hospital provides surgical services, the services must be well organized and provided in accordance with acceptable standards of practice. If outpatient surgical services are offered, the services must be consistent in quality with inpatient care in accordance with the complexity of services offered.

(b) The organization of the surgical services must be appropriate to the scope of the services offered.

(c) The operating rooms must be supervised by an experienced registered nurse or a doctor of medicine or osteopathy.

(d) A hospital may use scrub nurses in its operating rooms. For the purposes of this rule, a "scrub nurse" is defined as a registered nurse or either a licensed practical nurse (LPN) or a surgical technologist (operating room technician) supervised by a registered nurse who works directly with a surgeon within the sterile field, passing instruments, sponges, and other items needed during the procedure and who scrubs his or her hands and arms with special disinfecting soap and wears surgical gowns, caps, eyewear, and gloves, when appropriate.

(e) Qualified registered nurses may perform circulating duties in the operating room. In accordance with applicable state laws and approved medical staff policies and procedures, LPNs and surgical technologists may assist in circulatory duties under the supervision of a qualified registered nurse who is immediately available to respond to emergencies.

(f) Surgical privileges must be delineated for all practitioners performing surgery in accordance with the competencies of each practitioner. The surgical service must maintain a roster of practitioners specifying the surgical privileges of each practitioner.

(Rule 1200-08-01-.07, continued)

(g) Surgical services must be consistent with needs and resources. Policies covering surgical care must be designed to assure the achievement and maintenance of high standards of medical practice and patient care.

(h) Surgical technologists must:

1. Hold current national certification established by the Liaison Council on Certification for the Surgical Technologist (LCC-ST); or

2. Have completed a program for surgical technology accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); or

3. Have completed an appropriate training program for surgical technologists in the armed forces or at a CAAHEP accredited hospital or CAAHEP accredited ambulatory surgical treatment center; or

4. Successfully complete the surgical technologists LCC-ST certifying exam; or

5. Provide sufficient evidence that, prior to May 21, 2007, the person was at any time employed as a surgical technologist for not less than eighteen (18) months in the three (3) years preceding May 21, 2007 in a hospital, medical office, surgery center, or an accredited school of surgical technology; or has begun the appropriate training to be a surgical technologist prior to May 21, 2007, provided that such training is completed within three (3) years of May 21, 2007.

(i) A hospital can petition the director of health care facilities of the department for a waiver from the provisions of 1200-08-01-.07(1)(h) if they are unable to employ a sufficient number of surgical technologists who meet the requirements. The facility shall demonstrate to the director that a diligent and thorough effort has been made to employ surgical technologist who meet the requirements. The director shall refuse to grant a waiver upon finding that a diligent and thorough effort has not been made. A waiver shall exempt a facility from meeting the requirements for not more than nine (9) months. Additional waivers may be granted, but all exemptions greater than twelve (12) months shall be approved by the Board for Licensing Health Care Facilities.

~~(j) Surgical technologists shall demonstrate continued competence in order to perform their professional duties in surgical technology. The employer shall maintain evidence of the continued competence of such individuals. Continued competence activities may include but are not limited to continuing education, in-service training, or certification renewal.~~

(j) Surgical technologists shall demonstrate continued competence in order to perform their professional duties in surgical technology. The employer shall maintain evidence of the continued competence of such individuals. Continued competence activities may include but are not limited to continuing education, in-service training, or certification renewal. Persons qualified to be employed as surgical technologists shall complete fifteen (15) hours of continuing education or contact hours annually. Current certification by the National Board of Surgical Technology and Surgical Assisting shall satisfy this requirement.

(k) There must be a complete history and physical work-up in the chart of every patient prior to surgery, except in emergencies. If the history has been dictated, but not yet recorded in the patient's chart, there must be a statement to that effect and an admission note in the chart by the practitioner who admitted the patient.

(Rule 1200-08-01-.07, continued)

(l) Properly executed informed consent, advance directive, and organ donation forms, when applicable, must be in the patient's chart before surgery, except in emergencies.

(m) The following equipment must be available to the operating room suites:

1. Call-in system;

2. Cardiac monitor;

3. Resuscitator;

4. Defibrillator;

5. Aspirator; and

6. Tracheotomy set.

(n) There must be adequate provisions for immediate pre and post-operative care.

(o) The operating room register must be complete and up-to-date.

(p) An operative report describing techniques, findings, and tissues removed or altered must be written or dictated immediately following surgery and signed by the surgeon.

(2) Anesthesia Services.

(a) If the hospital furnishes anesthesia services, they must be provided in a well organized manner under the direction of a qualified doctor of medicine or osteopathy. The service is responsible for all anesthesia administered in the hospital.

(b) The organization of anesthesia services must be appropriate to the scope of the services offered. Anesthesia must be administered only by:

1. A qualified anesthesiologist;

2. A doctor of medicine or osteopathy (other than an anesthesiologist);

3. A dentist, oral surgeon, or podiatrist who is qualified to administer anesthesia under State law;

4. A certified registered nurse anesthetist (CRNA); or

5. A graduate registered nurse anesthetist under the supervision of an anesthesiologist who is immediately available if needed.

(c) Anesthesia services must be consistent with needs and resources. Policies on anesthesia procedures must include the delineation of pre-anesthesia and post-anesthesia responsibilities. The policies must ensure that the following are provided for each patient:

1. A pre-anesthesia evaluation or evaluation update conducted within forty-eight (48) hours prior to surgery by an individual qualified to administer anesthesia;

2. An intraoperative anesthesia record;

(Rule 1200-08-01-.07, continued)

3. For each inpatient, a written post-anesthesia follow-up report prepared within forty-eight (48) hours following surgery by an individual qualified to administer anesthesia or by the person who administered the anesthesia and submits the report by telephone; and

4. For each outpatient, a post-anesthesia evaluation of anesthesia recovery prepared in accordance with policies and procedures approved by the medical staff.

(3) Nuclear Medicine Services.

(a) If the hospital provides nuclear medicine services, those services must meet the needs of the patients in accordance with acceptable standards of practice.

(b) The organization of the nuclear medicine service must be appropriate to the scope and complexity of the services offered.

(c) There must be a director who is a doctor of medicine or osteopathy qualified in nuclear medicine.

(d) The qualifications, training, functions, and responsibilities of nuclear medicine personnel must be specified by the service director and approved by the medical staff.

(e) Radioactive materials must be prepared, labeled, used, transported, stored, and disposed of in accordance with acceptable standards of practice.

(f) In-house preparation of radiopharmaceuticals is by, or under, the direct supervision of an appropriately trained registered pharmacist or a doctor of medicine or osteopathy.

(g) If laboratory tests are performed in the nuclear medicine service, the service must meet the applicable requirements for laboratory services as specified in TCA § 68-29-101, et seq.

(h) Equipment and supplies must be appropriate for the types of nuclear medicine services offered and must be maintained for safe and efficient performance. The equipment must be:

1. Maintained in safe operating condition; and,

2. Inspected, tested, and calibrated at least annually by qualified personnel.

(i) The hospital must maintain signed and dated reports of nuclear medicine interpretations, consultations, and procedures. Copies of nuclear medicine reports must be maintained for at least ten (10) years.

(j) The practitioner approved by the medical staff to interpret diagnostic procedures must sign and date the interpretation of these tests.

(k) The hospital must maintain records of the receipt and disposition of radiopharmaceuticals.

(l) Nuclear medicine services must be ordered only by a practitioner whose scope of federal or state licensure and whose defined staff privileges allow such referrals.

(m) Patients are not left unattended in pre and post procedure areas.

(Rule 1200-08-01-.07, continued)

(4) Outpatient Services.

(a) If the hospital provides outpatient services, the services must meet the needs of the patients in accordance with acceptable standards of practice.

(b) Outpatient services must be appropriately organized and integrated with inpatient services.

(c) The hospital must have appropriate professional and non-professional personnel available to provide outpatient services.

(d) Patient's rights, including a phone number to call regarding questions or concerns, shall be made readily available to outpatients.

(e) Outpatient laboratory testing in Tennessee hospitals may be ordered by the following:

1. Any licensed Tennessee practitioner who is authorized to do so by T.C.A. § 68-29-121;

2. Any out of state practitioner who has a Tennessee telemedicine license issued pursuant to rule 0880-02-.16; or

3. Any duly licensed out of state health care professional as listed in T.C.A. § 68-29-121 who is authorized by his or her state board to order outpatient laboratory testing in hospitals for individuals with whom that practitioner has an existing face-to-face patient relationship as outlined in rule 0880-02-.14(7)(a)1., 2., and 3.

(f) Outpatient diagnostic testing in Tennessee hospitals may be ordered by the following:

1. Any Tennessee practitioner licensed under Title 63 who is authorized to do so by his or her practice act;

2. Any out of state practitioner who has a Tennessee telemedicine license issued pursuant to rule 0880-02-.16; or

3. Any duly licensed out of state health care professional who is authorized by his or her state board to order outpatient diagnostic testing in hospitals for individuals with whom that practitioner has an existing face-to-face patient relationship as outlined in rule 0880-02-.14(7)(a)1., 2., and 3.

(5) Emergency Services.

(a) Hospitals that elect to provide surgical services, other than in a separately licensed Ambulatory Surgical Treatment Center, must maintain and operate an emergency room.

(b) If emergency services are provided, the hospital must meet the emergency needs of patients in accordance with acceptable standards of practice. Each hospital must have a policy which assures that all patients who present to the emergency department, are screened/triaged to determine if a medical emergency exists and stabilized when a medical emergency does exist. A hospital may deny access to patients when it is on diversionary status only because it does not have the staff or facilities in the emergency department to accept any additional emergency patients at that time. If an ambulance disregards the hospital's instructions and brings an individual on to the hospital grounds, the individual has arrived on hospital property and cannot be denied access to

(Rule 1200-08-01-.07, continued)

hospital services. Hospital property, for the purpose of this subparagraph, is considered to be:

1. The hospital's physical geographic boundaries; or

2. Ambulances owned and operated by the hospital, whenever in operation, whether or not on hospital grounds.

(c) A hospital may not delay provision of an appropriate medical screening examination in order to inquire about the individual's method of payment or insurance status.

(d) If emergency services are provided at the hospital:

1. The services must be organized under the direction of a qualified member of the medical staff;

2. The services must be integrated with other departments of the hospital; and

3. The policies and procedures governing medical care provided in the emergency service or department are established by and are a continuing responsibility of the medical staff. These policies and procedures must define how the hospital will assess, stabilize, treat and/or transfer patients.

(e) There must be adequate medical and nursing personnel qualified in emergency care to meet the written emergency procedures and needs anticipated by the facility.

(f) There shall be a sufficient number of emergency rooms and adequate equipment and supplies to accommodate the caseload of the emergency services.

(g) The entrance to the emergency department shall be clearly marked.

(h) Legend drugs in emergency rooms shall be stored in locked cabinets, except as otherwise provided for emergency drugs by the written policies and procedures of the hospital. Discharge medications may be dispensed to out-patients upon written physician orders provided that they have been packaged in containers by the pharmacist in amounts not to exceed twelve (12) hours dosage and labeled in accordance with Pharmacy Board rules.

(i) Emergency Room medical records shall include the following:

1. Identification data;

2. Information concerning the time of arrival, means and by whom transported;

3. Pertinent history of the injury or illness to include chief complaint and onset of injuries or illness;

4. Significant physical findings;

5. Description of laboratory, x-ray and EKG findings;

6. Treatment rendered;

7. Condition of the patient on discharge or transfer;

8. Diagnosis on discharge;

9. Instructions given to the patient or his family; and

10. A control register listing chronologically the patient visits to the emergency room. The record shall contain at least the patient's name, date and time of arrival and record number. The name of those dead on arrival shall be entered in the register.

(j) Emergency patients and their families are made aware of their rights, including a number to call regarding concerns or questions.

(6) Rehabilitation Services.

(a) If the hospital provides rehabilitation, physical therapy, occupational therapy, audiology, or speech pathology services, the services must be organized and staffed to ensure the health and safety of patients. These disciplines should document their contribution to the plan for patient care.

(b) The organization of the service must be appropriate to the scope of the services offered.

(c) The director of the service must have the necessary knowledge, experience, and capabilities to properly supervise and administer the services.

(d) Physical therapy, occupational therapy, speech therapy, or audiology services, if provided, must be provided by staff who meet the qualifications specified by hospital policy, consistent with state law.

(e) Services must be furnished in accordance with a written plan of treatment. Services must be given in accordance with orders of practitioners who are authorized by the medical staff to order the services and the orders must be incorporated in the patient's record.

(7) Obstetrical Services.

(a) If a hospital provides obstetrical services it shall have space, facilities, equipment and qualified personnel to assure appropriate treatment of all maternity patients and newborns.

(b) The hospital must have written policies and procedures governing medical care provided in the obstetrical service which are established by and are a continuing responsibility of the medical staff.

(c) Provisions must be made for care of the patient during labor and delivery, either in the patient's room or in a designated room.

(d) Designated delivery rooms shall be segregated from patient areas and be located so as not to be used as a passageway between or subject to contamination from other parts of the hospital.

(e) A delivery record shall be kept that must indicate:

1. The name of the patient;

2. Her maiden name;

(Rule 1200-08-01-.07, continued)

3. Date of delivery;

4. Sex of infant;

5. Name of physician;

6. Names of persons assisting;

7. What complications, if any, occurred;

8. Type of anesthesia used;

9. Name of person administering anesthesia; and

10. Other persons present.

(8) Pediatric Services.

(a) If the hospital provides pediatric services, it shall provide appropriate pediatric equipment and supplies.

(b) Pediatric services must be appropriate to the scope and complexity of the services offered and must meet the needs of the patients in accordance with acceptable standards of practice.

(c) The hospital must have appropriate professional and non-professional personnel available to provide pediatric services.

(9) Respiratory Care Services.

(a) If the hospital provides respiratory care services, the hospital must meet the needs of the patients in accordance with acceptable standards of practice.

(b) The organization of the respiratory care services must be appropriate to the scope and complexity of the services offered.

(c) There must be a director of respiratory care services who is a doctor of medicine or osteopathy with the knowledge, experience, and capabilities to supervise and administer the service properly.

(d) There must be adequate numbers of certified respiratory therapists, certified respiratory therapy technicians, and other personnel who meet the qualifications specified by the medical staff, consistent with state law.

(e) Services must be delivered in accordance with medical staff directives.

(f) Personnel qualified to perform specific procedures and the amount of supervision required for personnel to carry out specific procedures must be designated in writing.

(g) If blood gases or other laboratory tests are performed in the respiratory care unit, the unit must meet the applicable requirements for clinical laboratory services specified in the Tennessee Medical Laboratory Act.

(10) Social Work Services.

(Rule 1200-08-01-.07, continued)

(a) If the hospital provides social work services, the services must be available to the patient, the patient's family and other persons significant to the patient, in order to facilitate adjustment of these individuals to the impact of illness and to promote maximum benefits from the health care services provided.

(b) Social work services shall include psychosocial assessment, counseling, coordination of discharge planning, community liaison services, financial assistance and consultation.

(c) Social work services shall be provided by personnel who satisfy applicable accreditation standards and who are in compliance with Tennessee State Law governing social work practices. Social work personnel employed by the hospital prior to the effective date of these regulations shall be deemed to meet this requirement.

(d) Facilities for social work services shall be readily accessible and shall permit privacy for interviews and counseling.

(11) Psychiatric Services.

(a) If a hospital provides psychiatric services, a psychiatric unit devoted exclusively for the care and treatment of psychiatric patients and professional personnel qualified in the diagnosis and treatment of patients with psychiatric illnesses shall be provided. Adequate protection shall be provided for patients and the staff against any physical injury resulting from a patient becoming violent. A psychiatric unit shall meet the requirements as needed to care for patients admitted, either through direct care or by contractual arrangements.

(b) A hospital licensed by the Department of Health as a satellite hospital whose primary purpose is the provision of mental health or mental retardation services, must verify to the Department that Standards of the Department of Mental Health and Mental Retardation are satisfied.

(12) Alcohol and Drug Services.

(a) If a hospital provides alcohol and drug services, the service shall be devoted exclusively to the care and treatment of alcohol and drug dependent patients and have on staff physicians and other professional personnel qualified in the diagnosis and treatment of alcoholism and drug addiction.

(b) Adequate protection shall be provided for the patients and staff against any physical injury resulting from a patient becoming disturbed or violent. Alcohol and drug services shall meet the requirements as needed to care for patients admitted, either through direct care or by contractual arrangements.

(13) Perinatal and/or Neonatal Care Services. Any hospital providing perinatal and/or neonatal care services shall comply with the Tennessee Perinatal Care System Guidelines for Regionalization, Hospital Care Levels, Staffing and Facilities developed by the Tennessee Department of Health's Perinatal Advisory Committee, June 1997 including amendments as necessary.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-57-101, 68-57-102, 68-57-104 and 68-57-105.* ***Administrative History:*** *Original rule filed March 18, 2000; effective May 30, 2000. Amendment filed April 17, 2000; effective July 1, 2000. Amendment filed June 12, 2003; effective August 26, 2003. Amendment filed July 27, 2005; effective October 10, 2005. Amendment filed February 23, 2006; effective May 9, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Amendment*

(Rule 1200-08-01-.07, continued)
filed February 22, 2010; effective May 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012.

1200-08-01-.08 BUILDING STANDARDS.

(1) A hospital shall construct, arrange, and maintain the condition of the physical plant and the overall hospital environment in such a manner that the safety and well-being of the patients are assured.

(2) 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, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; the 2005 edition of the National Electrical Code; and the 2005 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. 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.

(3) 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.

(4) A licensed contractor shall perform all new construction and renovations to hospitals, 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 hospitals, including the submission of phased construction plans and the final drawings and the specifications to each.

(5) No new hospital shall be constructed, nor shall major alterations be made to an existing hospital without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new hospital is licensed or before any alteration or expansion of a licensed hospital 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.

(6) 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.

(7) 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.

(Rule 1200-08-01-.12, continued)

(c) To refuse treatment. The patient must be informed of the consequences of that decision, the refusal and its reason must be reported to the physician and documented in the medical record;

(d) To refuse experimental treatment and drugs. The patient's or health care decision maker's written consent for participation in research must be obtained and retained in his or her medical record;

(e) To have their records kept confidential and private. Written consent by the patient must be obtained prior to release of information except to persons authorized by law. If the patient lacks capacity, written consent is required from the patient's health care decision maker. The hospital must have policies to govern access and duplication of the patient's record;

(f) To have access to a phone number to call if there are questions or complaints about care;

(g) To have appropriate assessment and management of pain; and

(h) To be involved in the decision making of all aspects of their care.

(2) Each patient has a right to self-determination, which encompasses the right to make choices regarding life-sustaining treatment (including resuscitative services). This right of self-determination may be effectuated by an advance directive.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed March 18, 2000; effective May 30, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendments filed September 6, 2005; effective November 20, 2005.*

1200-08-01-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each hospital shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a patient who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual patients. 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 patient could have made while having capacity, or may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to authorize the agent to make any health care decision the patient could have made while having capacity.

(3) The advance directive shall be in writing, signed by the patient, 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 patient by blood, marriage, or adoption and would not be entitled to any portion of the estate of the patient upon the death of the patient. 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 authority of an agent becomes effective only upon a determination that the patient lacks capacity, and ceases to be effective upon a determination that the patient has recovered capacity.

(Rule 1200-08-01-.13, continued)

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a patient lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.

(7) An agent shall make a health care decision in accordance with the patient'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 patient's best interest. In determining the patient's best interest, the agent shall consider the patient's personal values to the extent known.

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

(9) A health care facility 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 patient'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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 patient 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 patient 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

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

(Rule 1200-08-01-.13, continued)

1. the patient has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(c) In the case of a patient who lacks capacity, the patient's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the patient is receiving health care.

(d) The patient's surrogate shall be an adult who has exhibited special care and concern for the patient, who is familiar with the patient'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 patient's spouse, unless legally separated;

2. the patient's adult child;

3. the patient's parent;

4. the patient's adult sibling;

5. any other adult relative of the patient; or

6. any other adult who satisfies the requirements of 1200-08-01-.13(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 patient shall be eligible to serve as the patient'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 known wishes of the patient or in accordance with the patient's best interests;

2. The proposed surrogate's regular contact with the patient 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 patient 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 patient lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-01-.13(16)(c) thru 1200-08-01-.13(16)(g) is reasonably available, the

(Rule 1200-08-01-.13, continued)

designated physician may make health care decisions for the patient after the designated 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 patient'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 patient'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 patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal values to the extent known to the surrogate.

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

(l) Except as provided in 1200-08-01-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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 patient's treating health care provider.

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

1. the employee so designated is a relative of the patient 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 patient to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.

(17) Guardian.

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

(Rule 1200-08-01-.13, continued)

(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 patient 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 patient 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 the determination in the patient's current clinical record and communicate the determination to the patient, if possible, and to any person then authorized to make health care decisions for the patient.

(19) Except as provided in 1200-08-01-.13(20) thru 1200-08-01-.13(22), a health care provider or institution providing care to a patient shall:

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

(b) comply with a health care decision for the patient made by a person then authorized to make health care decisions for the patient to the same extent as if the decision had been made by the patient 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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient.

(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 1200-08-01-.13(20) thru 1200-08-01-.13(22) shall:

(a) promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient;

(b) provide continuing care to the patient until a transfer can be effected or until the determination has been made that transfer cannot be effected;

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

(Rule 1200-08-01-.13, continued)

(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 patient has the same rights as the patient 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 patient, 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 for such identification 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 patient 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 may be used by a physician for a patient with whom the physician 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.~~

(Rule 1200-08-01-.13, continued)

~~(b) If the patient is an adult who is capable of making an informed decision, the patient'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 patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient'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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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 patient 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the

(Rule 1200-08-01-.13, continued)

physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a

(Rule 1200-08-01-.13, continued)

minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed March 18, 2000; effective May 30, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed September 6, 2005; effective November 20, 2005. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-01-.14 DISASTER PREPAREDNESS.

(Rule 1200-08-01-.14, continued)

(1) Emergency Electrical Power.

(a) All hospitals must have one or more on-site electrical generators which are capable of providing emergency electrical power to at least all life sustaining equipment and life sustaining resources such as: ventilators; blood banks, biological refrigerators, safety switches for boilers, safety lighting for corridors and stairwells and other essential equipment.

(b) Connections shall be through a switch which shall automatically transfer the circuits to the emergency power source in case of power failure. (It is recognized that some equipment may not sustain automatic transfer and provisions will have to be made to manually change these items from a non-emergency powered outlet to an emergency powered outlet or other power source).

(c) The emergency power system shall have a minimum of twenty four (24) hours of either propane, natural gas, gasoline or diesel fuel. The quantity shall be based on its expected or known connected load consumption during power interruptions. In addition, the hospital shall have a written contract with an area fuel distributor which guarantees first priority service for re-fills during power interruptions.

(d) The emergency power system shall be inspected weekly and exercised and under actual load and operating temperature conditions for at least thirty (30) minutes, once each month. Records shall be maintained for all inspections and tests and kept on file for a minimum of three (3) years.

(2) Physical Facility and Community Emergency Plans.

(a) Physical Facility (Internal Situations).

1. Every hospital shall have a current internal emergency plan, or plans, that provides for fires, bomb threats, severe weather, utility service failures, plus any local high risk situations such as floods, earthquakes, toxic fumes and chemical spills.

2. The plan(s) must include provisions for the relocation of persons within the building and/or either partial or full building evacuation. Plans that provide for the relocation of patients to other health care facilities must have written agreements for emergency transfers. Their agreements may be mutual, i.e. providing for transfers either way.

3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to all staff. Provisions that have security implications may be omitted from the outline versions. Familiarization information shall be included in employee orientation sessions and more detailed instructions must be included in continuing education programs. Records of orientation and education programs must be maintained for at least three (3) years.

4. Drills of the disaster preparedness plan shall be conducted at least once a year. The risk focus may vary by type of drill. Drills are for the purpose of educating staff, resource determination, testing personal safety provisions and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

(Rule 1200-08-01-.14, continued)

5. As soon as possible, real situations that result in a response by local authorities must be documented. This includes a critique of the activation of the plan. Actual documented situations that had education and training value may be substituted for a drill.

(b) Community Emergency (Mass Casualty).

1. Every hospital, unless exempted due to its limited scope of clinical services, shall have a plan that provides for the reception and treatment, within its capabilities, of medical emergencies resulting from a disaster within its usual service area. The plan should consider the probability of the types of disasters which might occur, both natural and "man-made".

2. The plan must provide for additional staffing, medical supplies, blood and other resources which would probably be needed. The plan must also include for the deferral of elective admission patients and also for the early transfer or discharge of some current patients if it appears that the number of casualties will exceed available staffed beds.

3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to staff who would be assigned non-routine duties during these types of emergencies. Familiarization information shall be included in employee orientation sessions and more detailed instruction must be included in continuing education programs. Records of orientation and education must be maintained for at least three (3) years.

4. At least one drill shall be conducted each year for the purpose of educating staff, resource determination, and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

5. As soon as possible, actual community emergency situations that result in the treatment of more than twenty (20) patients, or fifteen percent (15%) of the licensed bed capacity, whichever is less, must be documented. Actual situations that had education and training value may be substituted for a drill. This includes documented actual plan activation during community emergencies, even if no patients are received.

(c) Emergency Planning with Local Government Authorities.

1. All hospitals shall establish and maintain communications with the county Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The facility shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

2. Each hospital must rehearse both the Physical Facility and Community Emergency plan as required in these regulations, even if the local Emergency Management Agency is unable to participate.

3. A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.*
Administrative History: *Original rule filed March 18, 2000; effective May 30, 2000.*

1200-08-01-.15 APPENDIX I

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

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

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(Rule 1200-08-01-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Physician Orders for Scope of Treatment (POST)	Patient's Last Name
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.	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) (Allow Natural Death) 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 & NUTRITION.** Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-01-.15, continued)

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

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-01-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____

Section D *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/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date NP/CNS/PA (Signature at Discharge)	MD/NP/CNS/PA Phone Number:

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-01-.15, continued)

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-01-.15, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that

(Rule 1200-08-01-.15, continued)
medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-01-.15, continued)

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

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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)

(Rule 1200-08-01-.15, continued)

- 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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES
DIVISION OF HEALTH CARE FACILITIES

CHAPTER 1200-08-06
STANDARDS FOR NURSING HOMES

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1200-08-06-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ Administrator. A person currently licensed as such by the Tennessee Board of Examiners for Nursing Home Administrators.

(3) ~~(2)~~ Adult. An individual who has capacity and is at least 18 years of age.

(4) ~~(3)~~ Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) ~~(4)~~ Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) ~~(5)~~ Board. The Tennessee Board for Licensing Health Care Facilities.

(7) ~~(6)~~ Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a resident to make health care decisions while having the capacity to do so. A resident shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a resident shall have the burden of proving lack of capacity.

(8) ~~(7)~~ Cardiopulmonary Resuscitation (CPR). 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 ventilations or respirations, 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.

(Rule 1200-08-06-.01, continued)

(9) ~~(8)~~ Certified Nurse Aide or Certified Nursing Assistant. An individual who has successfully completed an approved nursing assistant training program and is registered with the department.

(10) ~~(9)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(11) ~~(10)~~ Competent. A resident who has capacity.

(12) ~~(11)~~ Department. The Tennessee Department of Health.

(13) ~~(12)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(14) ~~(13)~~ Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners. Persons exempt from licensure shall be registered with the American Dietetics Association pursuant to T.C.A. § 63-25-104.

(15) ~~(14)~~ Director of Nursing (DON). A Registered Nurse employed full time in a nursing home who satisfies the responsibilities set forth in this chapter.

~~(15) Do Not Resuscitate (DNR) Order. An 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.~~

(16) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(17) ~~(16)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(18) ~~(17)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(19) ~~(18)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(20) ~~(19)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state or federal regulations.

(21) ~~(20)~~ Health Care. 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).

(22) ~~(21)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(23) ~~(22)~~ Health Care Decision-maker. 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

(Rule 1200-08-06-.01, continued)

conservator with health care decision-making authority, the resident's surrogate as determined pursuant to Rule 1200-08-06-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(24) ~~(23)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(25) ~~(24)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(26) ~~(25)~~ Hospital. Any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with the services of a physician or dentist, of one (1) or more nonrelated persons who may be suffering from deformity, injury or disease or from any other condition for which nursing, medical or surgical services would be appropriate for care, diagnosis or treatment.

(27) ~~(26)~~ Hospitalization. The reception and care of any person for a continuous period longer than twenty-four (24) hours, for the purpose of giving advice, diagnosis, nursing service or treatment bearing on the physical health of such person, and maternity care involving labor and delivery for any period of time.

(28) ~~(27)~~ Incompetent. A resident who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(29) ~~(28)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(31) ~~(30)~~ Involuntary Transfer. The movement of a resident between nursing homes, without the consent of the resident, the resident's legal guardian, next of kin or representative.

(32) ~~(31)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(33) ~~(32)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(34) ~~(33)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(35) ~~(34)~~ Medical Director. A licensed physician employed by the nursing home to be responsible for medical care in the facility.

(36) ~~(35)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the resident's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(Rule 1200-08-06-.01, continued)

(37) ~~(36)~~ Medical Equipment. Equipment used for the diagnosis, treatment and monitoring of patients, including, but not limited to, oxygen care equipment and oxygen delivery systems, enteral and parenteral feeding pumps, and intravenous pumps.

(38) ~~(37)~~ Medical Record. Medical histories, records, reports, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, x-rays, radiology interpretations and other written, electronic, or graphic data prepared, kept, made or maintained in a facility that pertains to confinement or services rendered to residents.

(39) ~~(38)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the resident or other medical or surgical treatments to achieve the expressed goals of the informed resident. In the case of the incompetent resident, the resident's representative expresses the goals of the resident.

(40) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(41) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(42) ~~(39)~~ NFPA. The National Fire Protection Association.

(43) ~~(40)~~ Nurse Aide or Nursing Assistant Training Program. A specialized program approved by the Department to provide classroom instruction and supervised clinical experience for individuals who wish to be employed as Nurse Aides or Nursing Assistants.

(44) ~~(41)~~ Nursing Personnel. Licensed nurses and certified nurse aides who provide nursing care.

(45) ~~(42)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(46) (43) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.

(47) ~~(44)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(48) ~~(45)~~ Personally Informing. A communication by any effective means from the resident directly to a health care provider.

(Rule 1200-08-06-.01, continued)

(49) ~~(46)~~ Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.

(50) ~~(47)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(51) ~~(48)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

(52) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(53) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(54) ~~(49)~~ Podiatrist. A person currently licensed as such by the Tennessee Board of Registration in Podiatry.

(55) ~~(50)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(56) ~~(51)~~ Program Coordinator. A registered nurse who possesses a minimum of two years nursing experience with at least one year in long term care and is responsible for ensuring that the requirements of the Nurse Aide Training Program are met.

(57) ~~(52)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(58) ~~(53)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the resident's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(59) ~~(54)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(Rule 1200-08-06-.01, continued)

(60) ~~(55)~~ Resident/Patient. Includes but is not limited to any person who is suffering from an illness or injury and who is in need of nursing care.

(61) ~~(56)~~ Secured Unit. A facility or distinct part of a facility where residents are intentionally denied egress by any means.

(62) ~~(57)~~ Shall or Must. Compliance is mandatory.

(63) ~~(58)~~ Social Worker. In a facility with more than 120 beds a qualified social worker is an individual with:

(a) A bachelor's degree in social work or a bachelor's degree in a human services field including but not limited to sociology, special education, rehabilitation counseling, and psychology; and,

(b) One year of supervised social work experience in a health care setting working directly with individuals.

(64) ~~(59)~~ Speech Therapist. A person currently licensed as such by the Tennessee Board of Communication Disorders and Sciences.

(65) ~~(60)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(66) ~~(61)~~ Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board.

(67) ~~(62)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(68) ~~(63)~~ Surrogate. An individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident.

(69) ~~(64)~~ Survey. An on-site examination by the department to determine the quality of care and/or services provided.

(70) ~~(65)~~ Transfer. The movement of a resident between nursing homes at the direction of a physician or other qualified medical personnel when a physician is not readily available. The term does not include movement of a resident who leaves the facility against medical advice. The term does not apply to the commitment and movement of mentally ill and mentally retarded persons, the discharge or release of a resident no longer in need of nursing home care, or a nursing home's refusal, after an appropriate medical screening, to render any medical care on the grounds that the person does not have a medical need for nursing home care.

(71) ~~(66)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the resident.

(72) ~~(67)~~ Treating Physician. The physician selected by or assigned to the resident and who has the primary responsibility for the treatment and care of the resident. Where more than one physician shares such responsibility, any such physician may be deemed to be the "treating physician."

(Rule 1200-08-06-.01, continued)

~~(68) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-234, 68-11-1802, and 71-6-121.* ***Administrative History:*** *Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed September 21, 2005; effective December 5, 2005. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-06-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or any state, county or local governmental unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any nursing home without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the nursing home.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form provided by the department along with a copy of the Certificate of Need (CON) issued by the Tennessee Health Services and Development Agency (HSDA). Any condition placed on the CON will also be placed on the license.

(b) Each applicant for a license shall pay an annual license fee based on the number of nursing home beds. The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Residents shall not be admitted to the nursing home until a license has been issued. Applicants shall not hold themselves out to the public as being a nursing home until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

(d) 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 individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(e) The applicant shall allow the nursing home to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new

(Rule 1200-08-06-.12, continued)

least restrictive response feasible. They may be time-limited, shall be explained to the resident, and must be documented in the individual resident's record by reciting the limitation's reason and scope. Medical contraindications shall be supported by a physician's order. At least once each month, the administrator and the director of nursing shall review the restriction's justification and scope before removing it, amending it, or renewing it. The names of any residents in the facility whose rights have been restricted under the provisions of this rule shall be maintained on a separate list which shall be available for inspection by the department and by the area long-term care ombudsman.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-901, and 68-11-902.* ***Administrative History:*** *Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Amendment filed May 24, 2985; effective June 23, 1985. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed May 10, 1990; effective June 24, 1990. Amendment filed March 9, 1992; effective April 23, 1992. Amendment filed March 10, 1995; effective May 24, 1995. Amendment filed June 13, 1997; effective August 27, 1997. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed September 21, 2005; effective December 5, 2005.*

1200-08-06-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each nursing home 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 may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to 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 estate of the resident upon the death of the resident. 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 authority of an agent becomes effective only upon a determination that the resident lacks capacity, and ceases to be effective upon a determination that the resident has recovered capacity.

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a resident lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be

(Rule 1200-08-06-.13, continued)

made by the designated physician, who is authorized to consult with such other persons as he or she 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) A health care facility 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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

(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 resident has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(Rule 1200-08-06-.13, continued)

(c) In the case of a resident who lacks capacity, the resident's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the resident is receiving health care.

(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 1200-08-06-.13(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 known wishes of the resident or in accordance with the resident's 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 1200-08-06-.13(16)(c) thru 1200-08-06-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the resident after the designated 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

(Rule 1200-08-06-.13, continued)

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 to the surrogate.

(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 1200-08-06-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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) An employee of the treating health care provider or an employee of an operator of a health care institution may be designated as a surrogate 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.

(Rule 1200-08-06-.13, continued)

(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 the 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 1200-08-06-.13(20) thru 1200-08-06-.13(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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated 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 1200-08-06-.13(20) thru 1200-08-06-.13(22) shall:

(a) promptly so inform the resident, if possible, and any person then authorized to make health care decisions for the resident;

(b) provide continuing care to the resident until a transfer can be effected or until the determination has been made that transfer cannot be effected;

(c) unless the resident or person then authorized to make health care decisions for the resident refuses assistance, 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; and

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

(Rule 1200-08-06-.13, continued)

(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 for such identification 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 may be used by a physician for a patient with whom the physician 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.~~

(Rule 1200-08-06-.13, continued)

~~(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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the

(Rule 1200-08-06-.13, continued)

provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be

(Rule 1200-08-06-.13, continued)

resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed June 22, 1992; effective August 6, 1992. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed September 21, 2005; effective December 5, 2005. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-06-.14 DISASTER PREPAREDNESS.

(1) Emergency Electrical Power.

(Rule 1200-08-06-.14, continued)

(a) All nursing homes must have one or more on-site electrical generators which are capable of providing emergency electrical power to at least all life sustaining equipment and life sustaining resources such as: ventilators, blood banks, biological refrigerators, safety switches for boilers, safety lighting for corridors and stairwells, and other essential equipment.

(b) Connections shall be through a switch which shall automatically transfer the circuits to the emergency power source in case of power failure. It is recognized that some equipment may not sustain automatic transfer and provisions will have to be made to manually change these items from a non-emergency powered outlet to an emergency powered outlet or other power source. All emergency power transfer switches shall be labeled as such. Switches affecting heat, ventilation, and all systems shall be labeled.

(c) The emergency power system shall have a minimum of twenty four (24) hours of either propane, gasoline or diesel fuel. The quantity shall be based on its expected or known connected load consumption during power interruptions. In addition, the nursing home shall have a written contract with an area fuel distributor which guarantees first priority service for re-fills during power interruptions.

(d) The emergency power system (generator) shall be inspected weekly and exercised under actual load and operating temperature conditions for at least thirty (30) minutes, once each month, including automatic and manual transfer of equipment. The generator shall be exercised by trained facility staff who are familiar with the systems operation. Instructions for the operation of the systems and the manual transfer of emergency power shall be maintained with the facility's disaster preparedness plan and shall be separately identified in the plan. Records shall be maintained for all weekly inspections and monthly tests and be kept on file for a minimum of three (3) years.

(2) Physical Facility and Community Emergency Plans.

(a) Physical Facility (Internal Situations).

1. Every nursing home shall have a current internal emergency plan, or plans, that provides for fires, bomb threats, severe weather, utility service failures, plus any local high risk situations such as floods, earthquakes, toxic fumes and chemical spills. The plan should consider the probability of the types of disasters which might occur, both natural and "man-made".

2. The plan(s) must include provisions for the relocation of persons within the building and/or either partial or full building evacuation. Facilities which do not have sufficient emergency generator capacity to provide a place of refuge for residents during severe hot or cold weather emergencies shall specifically establish an emergency plan to assure a common area (dining room, hallway, or day rooms) is heated or cooled sufficiently to sustain residents during an emergency. This can be accomplished through several approaches including the installation of a transfer switch at the facility to which an emergency generator may be connected to operate a HVAC system for the place of refuge, or transportation of a generator to the facility and direct connection from the generator to emergency portable heating or cooling units. The plan must be coordinated with local emergency management agencies that provide emergency generators or heating or cooling units; and facilities are encouraged to enter into private agreements with local generator suppliers, rental agencies or other reliable sources of emergency power. Plans that provide for the relocation of residents to other health care facilities must have written agreements for emergency transfers. The agreements may be mutual, i.e. providing for transfers either way.

(Rule 1200-08-06-.14, continued)

3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to all staff. A copy shall be readily available at all times in the telephone operator's position or at the security center. Provisions that have security implications may be omitted from the outline versions. Familiarization information shall be included in employee orientation sessions and more detailed instructions must be included in continuing education programs. Records of orientation and education programs must be maintained for at least three (3) years.

4. The plan must provide for additional staffing, medical supplies, blood and other resources which would probably be needed.

5. Each of the following disaster preparedness plans shall be conducted annually prior to the month listed in the plan. Drills are for the purpose of educating staff, resource determination, testing personnel safety provisions and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

(i) Fire Safety Procedures Plan, to be exercised at any time during the year, shall include:

(I) Minor fires;

(II) Major fires;

(III) Fighting the fire;

(IV) Evacuation procedures;

(V) Staff functions by department and job assignment; and,

(VI) Fire drill schedules (fire drills shall be held at least quarterly on each work shift).

(ii) External disaster procedures plan (for tornado, flood, earthquake), to be exercised prior to March, shall include:

(I) Staff duties by department and job assignment; and,

(II) Evacuation procedures.

(iii) Bomb Threat Procedures Plan, to be exercised at any time during the year:

(I) Staff duties by department and job assignment; and,

(II) Search team, searching the premises.

6. The nursing home shall develop and periodically review with all employees a prearranged plan for the orderly evacuation of all residents in case of a fire, internal disaster or other emergency. The plan of evacuation shall be posted throughout the home. Fire drills shall be held at least quarterly for each work shift for nursing home personnel in each separate patient-occupied nursing home building. There shall be a written report documenting the evaluation of each drill and the action recommended or taken for any deficiencies found. Records which

(Rule 1200-08-06-.14, continued)

document and evaluate these drills must be maintained for at least three (3) years.

(b) Community Emergency (Mass Casualty).

1. Every nursing home, unless exempted due to its limited scope of clinical services, shall have a plan that provides for the reception and treatment, within its capabilities, of medical emergencies resulting from a disaster within its usual service area. The plan should consider the probability of the types of disasters which might occur, both natural and "man-made".

2. The plan must provide for additional staffing, medical supplies, blood and other resources which would probably be needed. The plan must also provide for the deferral of elective admission patients and also for the early transfer or discharge of some current patients if it appears that the number of casualties will exceed available staffed beds.

3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to staff who would be assigned non-routine duties during these types of emergencies. Familiarization information shall be included in employee orientation sessions and more detailed instruction must be included in continuing education programs. Records of orientation and education must be maintained for at least three (3) years.

4. At least one drill shall be conducted each year for the purpose of educating staff, resource determination, and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

5. As soon as possible, actual community emergency situations that result in the treatment of more than twenty (20) patients, or fifteen percent (15%) of the licensed bed capacity, whichever is less, must be documented. Actual situations that had education and training value may be substituted for a drill. This includes documented actual plan activation during community emergencies, even if no patients are received.

(c) Emergency Planning with Local Government Authorities.

1. All nursing homes shall establish and maintain communications with the county Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The facility shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

2. Each nursing home must rehearse both the Physical Facility and Community Emergency plan as required in this rule, even if the local Emergency Management Agency is unable to participate.

3. A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed September 21, 2005; effective December 5, 2005.*

1200-08-06-.15 NURSE AIDE TRAINING AND COMPETENCY EVALUATION. All nurse aide training programs must comply with the federal nurse aide training and competency regulations, promulgated pursuant to the Omnibus Budget Reconciliation Act of 1987, and with federal labor laws, including but not limited to minimum age requirements. Copies of these regulations may be obtained from the department.

(1) Testing service.

(a) The Department shall provide or contract for the provision of nurse aide testing services as follows:

1. Annual publication of testing schedules and sites.

2. Test sites shall be located so that no individual is required to drive farther than thirty (30) miles to reach a test site.

3. Scheduled tests shall be administered, except when no individual is scheduled to test at a particular test site.

4. The number of individuals passing and failing shall be published following each test.

5. The minimum passing grade for each test shall be seventy-five percent (75%) for the written or oral component. The performance demonstration portion of the test shall consist, at minimum, of five performance tasks, which shall be selected randomly for each registrant from a pool of skills evaluation tasks ranked according to degree of difficulty, with at least one task selected from each degree of difficulty. Registrants are required to pass a minimum of five (5) performance tasks.

6. Individuals who fail any portion of the test three (3) consecutive times shall repeat training prior to taking the test again.

(b) Applications to take the test shall be sent by the program coordinator to the appropriate testing agency postmarked no later than thirty (30) days prior to the test date. Requests for special testing needs shall be made to the testing agency at this time.

(c) The department shall provide the board with quarterly reports on the number of individuals passing and failing each test.

(d) A practical and written test will be developed to reflect that a trainee has acquired the minimum competency skills necessary to become a competent and qualified nurse aide. The Nurse Aide Advisory Committee, composed of twelve (12) members with at least three (3) members nominated by the Tennessee Health Care Association, will periodically review testing materials and set criteria for survey visits of the nurse aide programs.

(e) The test will be developed from a pool of questions, only a portion of which is to be used for grading purposes in any one test, not to exceed one hundred (100) questions. A system must be developed which prevents the disclosure of the pool of questions and of the performance demonstration portion of the test.

(2) Training program.

(a) Requests for approval of a nurse aide training program shall be submitted to the department and shall include the following:

(Rule 1200-08-06-.15, continued)

1. Name, address and telephone number of the facility, institution or agency offering the program;

2. The program coordinator's name, address, license number and verification of a minimum of two (2) years nursing experience, at least one of which must be in the provision of long-term care facility services;

3. Statement of course objectives;

4. Description of course content specifying the number of hours to be spent in the classroom and in clinical settings; and,

5. In lieu of (3) and (4) above, the fact that the curriculum is previously department-approved.

(b) Notification of any change to any one of the above five (5) items or termination of the program must be submitted to the department within 30 days.

(c) Each training program shall have a pass rate on both written and performance exams of at least 70%. Annual reviews of Nurse Aide Training Programs shall include:

1. Letter of commendation for exceptional pass rate as evaluated by the department;

2. Letter of concern for programs having one year of test pass rates below 70%;

3. Request for plan of program improvement for programs with two consecutive years of test pass rates below 70%;

~~4. Request to appear before the Board for programs with two consecutive years of test pass rates below 70%; and~~

4. After the third year of consecutive test pass rates below seventy-percent (70%), the program shall be closed for no less than twenty-four (24) months. All students enrolled in the program shall be allowed to complete the course. Any program closed may appeal the closure to the Board pursuant to the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5, Part 3.

5. Program is subject to closure after demonstration of a consistent pattern of poor test performance.

(d) Each program coordinator shall be responsible for ensuring that the following requirements are met:

1. Course objectives are accomplished;

2. Only persons having appropriate skills and knowledge are selected to conduct any part of the training;

3. The provision of direct individual care to residents by a trainee is limited to appropriately supervised clinical experiences; a program instructor must be present or readily available on-site during all clinical training hours including direct patient care for the seventy-five (75) hour training program. All activities of daily living (ADL) skills, including but not limited to bathing, feeding, toileting,

(Rule 1200-08-06-.15, continued)

grooming, oral care, and perineal care, must be taught prior to student performing direct patient care;

4. The area used for training is well-lighted, well-ventilated and provides for privacy for instruction. Such requirements are not to exceed the requirements for physical space in a nursing facility;

5. Each trainee demonstrates competence in clinical skills and fundamental principles of resident care;

6. Records are kept to verify the participation and performance of each trainee in each phase of the training program. The satisfactory completion of the training program by each trainee shall be attested to on each trainee's record;

7. Each trainee is issued a certificate of completion which includes at least the name of the program, the date of issuance, the trainee's name and the signature of the program coordinator.

8. The program coordinator shall be responsible for the completion, signing and submission to the department of all required documentation.

(e) Student to teacher ratio must be as follows: 25:1 in classroom and 15:1 for direct patient care training.

(3) Nurse Aide Registry. A nursing home must not use any individual working in a facility as a nurse aide for more than four (4) months unless that individual's name is included on the Nurse Aide Registry. A facility must not use on a temporary, per diem, leased or any basis other than permanent, any individual who does not meet the requirements of training and competency testing.

(a) The nurse aide registry shall include:

1. The individual's full name, including a maiden name and any other surnames used;

2. The individual's last known home address;

3. The individual's date of birth; and,

4. The date that the individual passed the competency test and the expiration date of the individual's current registration.

(b) The name of any individual who has not performed nursing or nursing related services for a period of twenty-four (24) consecutive months shall be removed from the Nurse Aide Registry.

(4) Continued Competency. The facility must complete a performance review of each nurse aide employee at least once every 12 months and must provide regular in-service education based on the outcome of these reviews.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, and 68-11-804.* ***Administrative History:*** *Original rule filed September 4, 2003; effective November 18, 2003.*

1200-08-06-.16 APPENDIX I

(Rule 1200-08-06-.16, continued)

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

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

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(Rule 1200-08-06-.16, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Physician Orders for Scope of Treatment (POST)	Patient's Last Name
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.	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) (Allow Natural Death) 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 & NUTRITION.** Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-06-.16, continued)

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

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-06-.16, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-06-.16, continued)

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(2) Advance Care Plan Form

(Rule 1200-08-06-.16, continued)

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address:
_____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes ☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes ☐ No	**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.
☐ Yes ☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes ☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that

(Rule 1200-08-06-.16, continued)
medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2 Page 1 of 2

(Rule 1200-08-06-.16, continued)

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

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-06-.16, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES
DIVISION OF HEALTH CARE FACILITIES

CHAPTER 1200-08-06
STANDARDS FOR NURSING HOMES

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1200-08-06-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ Administrator. A person currently licensed as such by the Tennessee Board of Examiners for Nursing Home Administrators.

(3) ~~(2)~~ Adult. An individual who has capacity and is at least 18 years of age.

(4) ~~(3)~~ Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) ~~(4)~~ Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) ~~(5)~~ Board. The Tennessee Board for Licensing Health Care Facilities.

(7) ~~(6)~~ Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a resident to make health care decisions while having the capacity to do so. A resident shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a resident shall have the burden of proving lack of capacity.

(8) ~~(7)~~ Cardiopulmonary Resuscitation (CPR). 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 ventilations or respirations, 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.

(Rule 1200-08-06-.01, continued)

(9) ~~(8)~~ Certified Nurse Aide or Certified Nursing Assistant. An individual who has successfully completed an approved nursing assistant training program and is registered with the department.

(10) ~~(9)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(11) ~~(10)~~ Competent. A resident who has capacity.

(12) ~~(11)~~ Department. The Tennessee Department of Health.

(13) ~~(12)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(14) ~~(13)~~ Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners. Persons exempt from licensure shall be registered with the American Dietetics Association pursuant to T.C.A. § 63-25-104.

(15) ~~(14)~~ Director of Nursing (DON). A Registered Nurse employed full time in a nursing home who satisfies the responsibilities set forth in this chapter.

~~(15) Do Not Resuscitate (DNR) Order. An 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.~~

(16) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(17) ~~(16)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(18) ~~(17)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(19) ~~(18)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(20) ~~(19)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state or federal regulations.

(21) ~~(20)~~ Health Care. 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).

(22) ~~(21)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(23) ~~(22)~~ Health Care Decision-maker. 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

(Rule 1200-08-06-.01, continued)

conservator with health care decision-making authority, the resident's surrogate as determined pursuant to Rule 1200-08-06-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(24) ~~(23)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(25) ~~(24)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(26) ~~(25)~~ Hospital. Any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with the services of a physician or dentist, of one (1) or more nonrelated persons who may be suffering from deformity, injury or disease or from any other condition for which nursing, medical or surgical services would be appropriate for care, diagnosis or treatment.

(27) ~~(26)~~ Hospitalization. The reception and care of any person for a continuous period longer than twenty-four (24) hours, for the purpose of giving advice, diagnosis, nursing service or treatment bearing on the physical health of such person, and maternity care involving labor and delivery for any period of time.

(28) ~~(27)~~ Incompetent. A resident who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(29) ~~(28)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(31) ~~(30)~~ Involuntary Transfer. The movement of a resident between nursing homes, without the consent of the resident, the resident's legal guardian, next of kin or representative.

(32) ~~(31)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(33) ~~(32)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(34) ~~(33)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(35) ~~(34)~~ Medical Director. A licensed physician employed by the nursing home to be responsible for medical care in the facility.

(36) ~~(35)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the resident's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(Rule 1200-08-06-.01, continued)

(37) ~~(36)~~ Medical Equipment. Equipment used for the diagnosis, treatment and monitoring of patients, including, but not limited to, oxygen care equipment and oxygen delivery systems, enteral and parenteral feeding pumps, and intravenous pumps.

(38) ~~(37)~~ Medical Record. Medical histories, records, reports, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, x-rays, radiology interpretations and other written, electronic, or graphic data prepared, kept, made or maintained in a facility that pertains to confinement or services rendered to residents.

(39) ~~(38)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the resident or other medical or surgical treatments to achieve the expressed goals of the informed resident. In the case of the incompetent resident, the resident's representative expresses the goals of the resident.

(40) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(41) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(42) ~~(39)~~ NFPA. The National Fire Protection Association.

(43) ~~(40)~~ Nurse Aide or Nursing Assistant Training Program. A specialized program approved by the Department to provide classroom instruction and supervised clinical experience for individuals who wish to be employed as Nurse Aides or Nursing Assistants.

(44) ~~(41)~~ Nursing Personnel. Licensed nurses and certified nurse aides who provide nursing care.

(45) ~~(42)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(46) (43) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.

(47) ~~(44)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(48) ~~(45)~~ Personally Informing. A communication by any effective means from the resident directly to a health care provider.

(Rule 1200-08-06-.01, continued)

(49) ~~(46)~~ Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.

(50) ~~(47)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(51) ~~(48)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

(52) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(53) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(54) ~~(49)~~ Podiatrist. A person currently licensed as such by the Tennessee Board of Registration in Podiatry.

(55) ~~(50)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(56) ~~(51)~~ Program Coordinator. A registered nurse who possesses a minimum of two years nursing experience with at least one year in long term care and is responsible for ensuring that the requirements of the Nurse Aide Training Program are met.

(57) ~~(52)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(58) ~~(53)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the resident's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(59) ~~(54)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(Rule 1200-08-06-.01, continued)

(60) ~~(55)~~ Resident/Patient. Includes but is not limited to any person who is suffering from an illness or injury and who is in need of nursing care.

(61) ~~(56)~~ Secured Unit. A facility or distinct part of a facility where residents are intentionally denied egress by any means.

(62) ~~(57)~~ Shall or Must. Compliance is mandatory.

(63) ~~(58)~~ Social Worker. In a facility with more than 120 beds a qualified social worker is an individual with:

(a) A bachelor's degree in social work or a bachelor's degree in a human services field including but not limited to sociology, special education, rehabilitation counseling, and psychology; and,

(b) One year of supervised social work experience in a health care setting working directly with individuals.

(64) ~~(59)~~ Speech Therapist. A person currently licensed as such by the Tennessee Board of Communication Disorders and Sciences.

(65) ~~(60)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(66) ~~(61)~~ Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board.

(67) ~~(62)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(68) ~~(63)~~ Surrogate. An individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident.

(69) ~~(64)~~ Survey. An on-site examination by the department to determine the quality of care and/or services provided.

(70) ~~(65)~~ Transfer. The movement of a resident between nursing homes at the direction of a physician or other qualified medical personnel when a physician is not readily available. The term does not include movement of a resident who leaves the facility against medical advice. The term does not apply to the commitment and movement of mentally ill and mentally retarded persons, the discharge or release of a resident no longer in need of nursing home care, or a nursing home's refusal, after an appropriate medical screening, to render any medical care on the grounds that the person does not have a medical need for nursing home care.

(71) ~~(66)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the resident.

(72) ~~(67)~~ Treating Physician. The physician selected by or assigned to the resident and who has the primary responsibility for the treatment and care of the resident. Where more than one physician shares such responsibility, any such physician may be deemed to be the "treating physician."

(Rule 1200-08-06-.01, continued)

~~(68) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-234, 68-11-1802, and 71-6-121.* ***Administrative History:*** *Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed September 21, 2005; effective December 5, 2005. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-06-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or any state, county or local governmental unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any nursing home without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the nursing home.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form provided by the department along with a copy of the Certificate of Need (CON) issued by the Tennessee Health Services and Development Agency (HSDA). Any condition placed on the CON will also be placed on the license.

(b) Each applicant for a license shall pay an annual license fee based on the number of nursing home beds. The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Residents shall not be admitted to the nursing home until a license has been issued. Applicants shall not hold themselves out to the public as being a nursing home until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

(d) 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 individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(e) The applicant shall allow the nursing home to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new

(Rule 1200-08-06-.12, continued)

least restrictive response feasible. They may be time-limited, shall be explained to the resident, and must be documented in the individual resident's record by reciting the limitation's reason and scope. Medical contraindications shall be supported by a physician's order. At least once each month, the administrator and the director of nursing shall review the restriction's justification and scope before removing it, amending it, or renewing it. The names of any residents in the facility whose rights have been restricted under the provisions of this rule shall be maintained on a separate list which shall be available for inspection by the department and by the area long-term care ombudsman.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-901, and 68-11-902.* ***Administrative History:*** *Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Amendment filed May 24, 2985; effective June 23, 1985. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed May 10, 1990; effective June 24, 1990. Amendment filed March 9, 1992; effective April 23, 1992. Amendment filed March 10, 1995; effective May 24, 1995. Amendment filed June 13, 1997; effective August 27, 1997. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed September 21, 2005; effective December 5, 2005.*

1200-08-06-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each nursing home 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 may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to 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 estate of the resident upon the death of the resident. 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 authority of an agent becomes effective only upon a determination that the resident lacks capacity, and ceases to be effective upon a determination that the resident has recovered capacity.

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a resident lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be

(Rule 1200-08-06-.13, continued)

made by the designated physician, who is authorized to consult with such other persons as he or she 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) A health care facility 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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

(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 resident has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(Rule 1200-08-06-.13, continued)

(c) In the case of a resident who lacks capacity, the resident's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the resident is receiving health care.

(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 1200-08-06-.13(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 known wishes of the resident or in accordance with the resident's 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 1200-08-06-.13(16)(c) thru 1200-08-06-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the resident after the designated 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

(Rule 1200-08-06-.13, continued)

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 to the surrogate.

(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 1200-08-06-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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) An employee of the treating health care provider or an employee of an operator of a health care institution may be designated as a surrogate 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.

(Rule 1200-08-06-.13, continued)

(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 the 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 1200-08-06-.13(20) thru 1200-08-06-.13(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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated 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 1200-08-06-.13(20) thru 1200-08-06-.13(22) shall:

(a) promptly so inform the resident, if possible, and any person then authorized to make health care decisions for the resident;

(b) provide continuing care to the resident until a transfer can be effected or until the determination has been made that transfer cannot be effected;

(c) unless the resident or person then authorized to make health care decisions for the resident refuses assistance, 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; and

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

(Rule 1200-08-06-.13, continued)

(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 for such identification 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 may be used by a physician for a patient with whom the physician 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.~~

(Rule 1200-08-06-.13, continued)

~~(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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the

(Rule 1200-08-06-.13, continued)

provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be

(Rule 1200-08-06-.13, continued)

resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed June 22, 1992; effective August 6, 1992. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed September 21, 2005; effective December 5, 2005. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-06-.14 DISASTER PREPAREDNESS.

(1) Emergency Electrical Power.

(Rule 1200-08-06-.14, continued)

(a) All nursing homes must have one or more on-site electrical generators which are capable of providing emergency electrical power to at least all life sustaining equipment and life sustaining resources such as: ventilators, blood banks, biological refrigerators, safety switches for boilers, safety lighting for corridors and stairwells, and other essential equipment.

(b) Connections shall be through a switch which shall automatically transfer the circuits to the emergency power source in case of power failure. It is recognized that some equipment may not sustain automatic transfer and provisions will have to be made to manually change these items from a non-emergency powered outlet to an emergency powered outlet or other power source. All emergency power transfer switches shall be labeled as such. Switches affecting heat, ventilation, and all systems shall be labeled.

(c) The emergency power system shall have a minimum of twenty four (24) hours of either propane, gasoline or diesel fuel. The quantity shall be based on its expected or known connected load consumption during power interruptions. In addition, the nursing home shall have a written contract with an area fuel distributor which guarantees first priority service for re-fills during power interruptions.

(d) The emergency power system (generator) shall be inspected weekly and exercised under actual load and operating temperature conditions for at least thirty (30) minutes, once each month, including automatic and manual transfer of equipment. The generator shall be exercised by trained facility staff who are familiar with the systems operation. Instructions for the operation of the systems and the manual transfer of emergency power shall be maintained with the facility's disaster preparedness plan and shall be separately identified in the plan. Records shall be maintained for all weekly inspections and monthly tests and be kept on file for a minimum of three (3) years.

(2) Physical Facility and Community Emergency Plans.

(a) Physical Facility (Internal Situations).

1. Every nursing home shall have a current internal emergency plan, or plans, that provides for fires, bomb threats, severe weather, utility service failures, plus any local high risk situations such as floods, earthquakes, toxic fumes and chemical spills. The plan should consider the probability of the types of disasters which might occur, both natural and "man-made".

2. The plan(s) must include provisions for the relocation of persons within the building and/or either partial or full building evacuation. Facilities which do not have sufficient emergency generator capacity to provide a place of refuge for residents during severe hot or cold weather emergencies shall specifically establish an emergency plan to assure a common area (dining room, hallway, or day rooms) is heated or cooled sufficiently to sustain residents during an emergency. This can be accomplished through several approaches including the installation of a transfer switch at the facility to which an emergency generator may be connected to operate a HVAC system for the place of refuge, or transportation of a generator to the facility and direct connection from the generator to emergency portable heating or cooling units. The plan must be coordinated with local emergency management agencies that provide emergency generators or heating or cooling units; and facilities are encouraged to enter into private agreements with local generator suppliers, rental agencies or other reliable sources of emergency power. Plans that provide for the relocation of residents to other health care facilities must have written agreements for emergency transfers. The agreements may be mutual, i.e. providing for transfers either way.

(Rule 1200-08-06-.14, continued)

3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to all staff. A copy shall be readily available at all times in the telephone operator's position or at the security center. Provisions that have security implications may be omitted from the outline versions. Familiarization information shall be included in employee orientation sessions and more detailed instructions must be included in continuing education programs. Records of orientation and education programs must be maintained for at least three (3) years.

4. The plan must provide for additional staffing, medical supplies, blood and other resources which would probably be needed.

5. Each of the following disaster preparedness plans shall be conducted annually prior to the month listed in the plan. Drills are for the purpose of educating staff, resource determination, testing personnel safety provisions and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

(i) Fire Safety Procedures Plan, to be exercised at any time during the year, shall include:

(I) Minor fires;

(II) Major fires;

(III) Fighting the fire;

(IV) Evacuation procedures;

(V) Staff functions by department and job assignment; and,

(VI) Fire drill schedules (fire drills shall be held at least quarterly on each work shift).

(ii) External disaster procedures plan (for tornado, flood, earthquake), to be exercised prior to March, shall include:

(I) Staff duties by department and job assignment; and,

(II) Evacuation procedures.

(iii) Bomb Threat Procedures Plan, to be exercised at any time during the year:

(I) Staff duties by department and job assignment; and,

(II) Search team, searching the premises.

6. The nursing home shall develop and periodically review with all employees a prearranged plan for the orderly evacuation of all residents in case of a fire, internal disaster or other emergency. The plan of evacuation shall be posted throughout the home. Fire drills shall be held at least quarterly for each work shift for nursing home personnel in each separate patient-occupied nursing home building. There shall be a written report documenting the evaluation of each drill and the action recommended or taken for any deficiencies found. Records which

(Rule 1200-08-06-.14, continued)

document and evaluate these drills must be maintained for at least three (3) years.

(b) Community Emergency (Mass Casualty).

1. Every nursing home, unless exempted due to its limited scope of clinical services, shall have a plan that provides for the reception and treatment, within its capabilities, of medical emergencies resulting from a disaster within its usual service area. The plan should consider the probability of the types of disasters which might occur, both natural and "man-made".

2. The plan must provide for additional staffing, medical supplies, blood and other resources which would probably be needed. The plan must also provide for the deferral of elective admission patients and also for the early transfer or discharge of some current patients if it appears that the number of casualties will exceed available staffed beds.

3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to staff who would be assigned non-routine duties during these types of emergencies. Familiarization information shall be included in employee orientation sessions and more detailed instruction must be included in continuing education programs. Records of orientation and education must be maintained for at least three (3) years.

4. At least one drill shall be conducted each year for the purpose of educating staff, resource determination, and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

5. As soon as possible, actual community emergency situations that result in the treatment of more than twenty (20) patients, or fifteen percent (15%) of the licensed bed capacity, whichever is less, must be documented. Actual situations that had education and training value may be substituted for a drill. This includes documented actual plan activation during community emergencies, even if no patients are received.

(c) Emergency Planning with Local Government Authorities.

1. All nursing homes shall establish and maintain communications with the county Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The facility shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

2. Each nursing home must rehearse both the Physical Facility and Community Emergency plan as required in this rule, even if the local Emergency Management Agency is unable to participate.

3. A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed September 21, 2005; effective December 5, 2005.*

1200-08-06-.15 NURSE AIDE TRAINING AND COMPETENCY EVALUATION. All nurse aide training programs must comply with the federal nurse aide training and competency regulations, promulgated pursuant to the Omnibus Budget Reconciliation Act of 1987, and with federal labor laws, including but not limited to minimum age requirements. Copies of these regulations may be obtained from the department.

(1) Testing service.

(a) The Department shall provide or contract for the provision of nurse aide testing services as follows:

1. Annual publication of testing schedules and sites.

2. Test sites shall be located so that no individual is required to drive farther than thirty (30) miles to reach a test site.

3. Scheduled tests shall be administered, except when no individual is scheduled to test at a particular test site.

4. The number of individuals passing and failing shall be published following each test.

5. The minimum passing grade for each test shall be seventy-five percent (75%) for the written or oral component. The performance demonstration portion of the test shall consist, at minimum, of five performance tasks, which shall be selected randomly for each registrant from a pool of skills evaluation tasks ranked according to degree of difficulty, with at least one task selected from each degree of difficulty. Registrants are required to pass a minimum of five (5) performance tasks.

6. Individuals who fail any portion of the test three (3) consecutive times shall repeat training prior to taking the test again.

(b) Applications to take the test shall be sent by the program coordinator to the appropriate testing agency postmarked no later than thirty (30) days prior to the test date. Requests for special testing needs shall be made to the testing agency at this time.

(c) The department shall provide the board with quarterly reports on the number of individuals passing and failing each test.

(d) A practical and written test will be developed to reflect that a trainee has acquired the minimum competency skills necessary to become a competent and qualified nurse aide. The Nurse Aide Advisory Committee, composed of twelve (12) members with at least three (3) members nominated by the Tennessee Health Care Association, will periodically review testing materials and set criteria for survey visits of the nurse aide programs.

(e) The test will be developed from a pool of questions, only a portion of which is to be used for grading purposes in any one test, not to exceed one hundred (100) questions. A system must be developed which prevents the disclosure of the pool of questions and of the performance demonstration portion of the test.

(2) Training program.

(a) Requests for approval of a nurse aide training program shall be submitted to the department and shall include the following:

(Rule 1200-08-06-.15, continued)

1. Name, address and telephone number of the facility, institution or agency offering the program;

2. The program coordinator's name, address, license number and verification of a minimum of two (2) years nursing experience, at least one of which must be in the provision of long-term care facility services;

3. Statement of course objectives;

4. Description of course content specifying the number of hours to be spent in the classroom and in clinical settings; and,

5. In lieu of (3) and (4) above, the fact that the curriculum is previously department-approved.

(b) Notification of any change to any one of the above five (5) items or termination of the program must be submitted to the department within 30 days.

(c) Each training program shall have a pass rate on both written and performance exams of at least 70%. Annual reviews of Nurse Aide Training Programs shall include:

1. Letter of commendation for exceptional pass rate as evaluated by the department;

2. Letter of concern for programs having one year of test pass rates below 70%;

3. Request for plan of program improvement for programs with two consecutive years of test pass rates below 70%;

~~4. Request to appear before the Board for programs with two consecutive years of test pass rates below 70%; and~~

4. After the third year of consecutive test pass rates below seventy-percent (70%), the program shall be closed for no less than twenty-four (24) months. All students enrolled in the program shall be allowed to complete the course. Any program closed may appeal the closure to the Board pursuant to the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5, Part 3.

5. Program is subject to closure after demonstration of a consistent pattern of poor test performance.

(d) Each program coordinator shall be responsible for ensuring that the following requirements are met:

1. Course objectives are accomplished;

2. Only persons having appropriate skills and knowledge are selected to conduct any part of the training;

3. The provision of direct individual care to residents by a trainee is limited to appropriately supervised clinical experiences; a program instructor must be present or readily available on-site during all clinical training hours including direct patient care for the seventy-five (75) hour training program. All activities of daily living (ADL) skills, including but not limited to bathing, feeding, toileting,

(Rule 1200-08-06-.15, continued)

grooming, oral care, and perineal care, must be taught prior to student performing direct patient care;

4. The area used for training is well-lighted, well-ventilated and provides for privacy for instruction. Such requirements are not to exceed the requirements for physical space in a nursing facility;

5. Each trainee demonstrates competence in clinical skills and fundamental principles of resident care;

6. Records are kept to verify the participation and performance of each trainee in each phase of the training program. The satisfactory completion of the training program by each trainee shall be attested to on each trainee's record;

7. Each trainee is issued a certificate of completion which includes at least the name of the program, the date of issuance, the trainee's name and the signature of the program coordinator.

8. The program coordinator shall be responsible for the completion, signing and submission to the department of all required documentation.

(e) Student to teacher ratio must be as follows: 25:1 in classroom and 15:1 for direct patient care training.

(3) Nurse Aide Registry. A nursing home must not use any individual working in a facility as a nurse aide for more than four (4) months unless that individual's name is included on the Nurse Aide Registry. A facility must not use on a temporary, per diem, leased or any basis other than permanent, any individual who does not meet the requirements of training and competency testing.

(a) The nurse aide registry shall include:

1. The individual's full name, including a maiden name and any other surnames used;

2. The individual's last known home address;

3. The individual's date of birth; and,

4. The date that the individual passed the competency test and the expiration date of the individual's current registration.

(b) The name of any individual who has not performed nursing or nursing related services for a period of twenty-four (24) consecutive months shall be removed from the Nurse Aide Registry.

(4) Continued Competency. The facility must complete a performance review of each nurse aide employee at least once every 12 months and must provide regular in-service education based on the outcome of these reviews.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, and 68-11-804.* ***Administrative History:*** *Original rule filed September 4, 2003; effective November 18, 2003.*

1200-08-06-.16 APPENDIX I

(Rule 1200-08-06-.16, continued)

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

~~(This space intentionally left blank)~~

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

(This space intentionally left blank)

(Rule 1200-08-06-.16, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Physician Orders for Scope of Treatment (POST)	Patient's Last Name
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.	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) (Allow Natural Death) 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 & NUTRITION.** Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-06-.16, continued)

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

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-06-.16, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-06-.16, continued)

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(2) Advance Care Plan Form

(Rule 1200-08-06-.16, continued)

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address:
_____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes ☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes ☐ No	**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.
☐ Yes ☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes ☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that

(Rule 1200-08-06-.16, continued)
medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2 Page 1 of 2

(Rule 1200-08-06-.16, continued)

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

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-06-.16, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
THE TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-10
STANDARDS FOR AMBULATORY SURGICAL TREATMENT CENTERS

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1200-08-10-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ Acceptable Plan of Correction. The Licensing Division approves an Ambulatory Surgical Treatment Center's plan to correct deficiencies identified during an on-site survey conducted by the Survey Division or its designated representative. The plan of correction shall be a written document and shall provide, but not limited to, the following information:

(a) How the deficiency will be corrected.

(b) Who will be responsible for correcting the deficiency.

(c) The date the deficiency will be corrected.

(d) How the facility will prevent the same deficiency from re-occurring.

(3) ~~(2)~~ Accredited Record Technician (ART). A person currently accredited as such by the American Medical Records Association.

(4) ~~(3)~~ Adult. An individual who has capacity and is at least 18 years of age.

(5) ~~(4)~~ Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(6) ~~(5)~~ Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(7) ~~(6)~~ Ambulatory surgical treatment center (ASTC). Any institution, place or building devoted primarily to the maintenance and operation of a facility for the performance of surgical procedures. Such facilities shall not provide beds or other accommodations for the stay of a patient to exceed twelve (12) hours duration, provided that the length of stay may be extended for an additional twelve (12) hours in the event such stay is deemed necessary by the attending physician, the facility medical director, or the anesthesiologist for observation or recovery, but in no event shall the length of stay exceed twenty-four (24) hours. Individual patients shall be discharged in an ambulatory condition without danger to the continued well-

(Rule 1200-08-10-.01, continued)

being of the patients or shall be transferred to a hospital. Excluded from this definition are the private physicians' and dentists' office practices. For the purposes of this rule, those medical and dental offices, facilities, and other settings at which surgical procedures exclusively are performed are ASTC's and not private office practices.

ASTC's must comply with the following for purposes of these regulations:

(a) surgical procedures performed must be limited to those procedures which are commonly performed on an inpatient basis in hospitals but may safely be performed in an ASTC;

(b) if anesthesia is required for a surgical procedure, it must be local, regional or general anesthesia and routinely be four (4) hours or less in duration;

(c) surgical procedures that generally result in extensive blood loss, require major or prolonged invasion of body cavities, or are considered emergency or life-threatening in nature may not be performed.

(8) ~~(7)~~Board. The Tennessee Board for Licensing Health Care Facilities.

(9) ~~(8)~~Cancer Treatment and Radiation Clinic. A facility in which the only procedures performed are diagnostic and therapeutic radiology, chemotherapy and related services.

(10) ~~(9)~~ Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient to make health care decisions while having the capacity to do so. A patient shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient shall have the burden of proving lack of capacity.

(11) ~~(10)~~ Cardiopulmonary Resuscitation (CPR). The administering of any means or device to support cardiopulmonary functions in a patient, 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 patient where cardiac or respiratory arrest has occurred or is believed to be imminent.

(12) ~~(11)~~ Certified Registered Nurse Anesthetist. A registered nurse currently licensed by the Tennessee Board of Nursing who is currently certified as such by the American Association of Nurse Anesthetists.

(13) ~~(12)~~ Clinical Laboratory Improvement Act (CLIA). The federal law requiring that clinical laboratories be approved by the U.S. Department of Health and Human Services, Health Care Financing Administration.

(14) ~~(13)~~ Collaborative Plan. The formal written plan between the mid-level practitioners and licensed physician.

(15) ~~(14)~~ Collaborative Practice. The implementation of the collaborative plan that outlines procedures for consultation and collaboration with other health care professionals, e.g., licensed physicians, mid-level practitioners or nurse midwives.

(16) ~~(15)~~ Commissioner. Commissioner of the Tennessee Department of Health or his or her authorized representative.

(Rule 1200-08-10-.01, continued)

(17) ~~(16)~~ Competent. A patient who has capacity.

(18) ~~(17)~~ Dentist. A person currently licensed as such by the Tennessee Board of Dentistry.

(19) ~~(18)~~ Department. The Tennessee Department of Health.

(20) ~~(19)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

~~(20) Do-Not-Resuscitate (DNR) order. An order entered by the patient's treating physician in the patient's medical records which states that in the event the patient 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.~~

(21) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(22) ~~(21)~~ Electronic Signature. The authentication of a health record document or documentation in an electronic form achieved through electronic entry of an exclusively assigned, unique identification code entered by the author of the documentation.

(23) ~~(22)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(24) ~~(23)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(25) ~~(24)~~ Gastrointestinal Endoscopy Clinic. A facility in which the only procedures performed are those related to the gastrointestinal tract and other endoscopic procedures. This excludes laparoscopy and limits entry to major body cavities by needle aspiration only.

(26) ~~(25)~~ General Anesthesia. An induced state of unconsciousness accompanied by partial or complete loss of protective reflexes inducing the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and produced by a pharmacological or non-pharmacological method or a combination thereof.

(27) ~~(26)~~ Graduate Registered Nurse Anesthetist. A registered nurse currently licensed in Tennessee who is a graduate of a nurse anesthesia educational program that is accredited by the American Association of Nurse Anesthetist's Council on Accreditation of Nurse Anesthesia Educational Programs and awaiting initial certification examination results, provided that initial certification is accomplished within eighteen (18) months of completion of an accredited nurse anesthesia educational program.

(28) ~~(27)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(29) ~~(28)~~ Hazardous Waste. Materials whose handling, use, storage and disposal are governed by local, state or federal regulations.

(Rule 1200-08-10-.01, continued)

(30) ~~(29)~~ Health Care. 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).

(31) ~~(30)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(32) ~~(31)~~ Health Care Decision-maker. In the case of a patient who lacks capacity, the patient's health care decision-maker is one of the following: the patient's health care agent as specified in an advance directive, the patient's court-appointed guardian or conservator with health care decision-making authority, the patient's surrogate as determined pursuant to Rule 1200-08-10-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(33) ~~(32)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(34) ~~(33)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(35) ~~(34)~~ Hospital. Any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with services of a physician or dentist, to one (1) or more non-related persons who may be suffering from deformity, injury or disease or from any other condition for which nursing, medical or surgical services would be appropriate for care, diagnosis or treatment.

(36) ~~(35)~~ Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(37) ~~(36)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(39) ~~(38)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(40) ~~(39)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all applicable rules and regulations.

(41) ~~(40)~~ Life Threatening or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(42) ~~(41)~~ Medical emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(43) ~~(42)~~ Medical Record. Medical histories, records, reports, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, x-rays, radiology interpretations and other written electronics, or graphic data prepared, kept, made or

(Rule 1200-08-10-.01, continued)

maintained in a facility that pertains to confinement or services rendered to patients admitted or receiving care.

(44) ~~(43)~~ Medical Staff. An organized body composed of individuals appointed by the ambulatory surgical treatment center governing board. All members of the medical staff shall be licensed to practice in Tennessee, with the exception of interns and residents.

(45) ~~(44)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or other medical or surgical treatments to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the patient's representative expresses the goals of the patient.

(46) ~~(45)~~ Mid-Level Practitioner. A registered nurse licensed in Tennessee who holds a master's degree in a clinical nursing specialty, national certification through the ANCC or American Academy of Nurse Practitioners and holds a certificate of fitness to prescribe from the Tennessee Board of Nursing.

(47) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(48) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(49) ~~(46)~~ N.F.P.A. National Fire Protection Association.

(50) ~~(47)~~ Nurse Midwife. A person currently licensed by the Tennessee Board of Nursing as a registered nurse (R.N.) and qualified to deliver midwifery services or certified by the American College of Nurse-Midwives.

(51) ~~(48)~~ Patient. Includes but is not limited to any person who is suffering from an acute or chronic illness or injury or who is crippled, convalescent or infirm, or who is in need of obstetrical, surgical, medical, nursing or supervisory care.

~~(49) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(52) ~~(50)~~ PALS. Pediatric Advance Life Support.

(53) ~~(51)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(54) ~~(52)~~ Personally Informing. A communication by any effective means from the patient directly to a health care provider.

(Rule 1200-08-10-.01, continued)

(55) ~~(53)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

~~(54) Physician Assistant. A person who is licensed by the Tennessee Board of Medical Examiners and Committee on Physician Assistants and has obtained prescription writing authority pursuant to T.C.A. §63-19-107(2)(A).~~

(56) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(57) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(58) ~~(55)~~ Podiatrist. A person currently licensed as such by the Tennessee Board of Registration in Podiatry.

(59) ~~(56)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(60) ~~(57)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(61) ~~(58)~~ Radiological Technologist. A person currently certified as such by the American Society of Radiological Technologists.

(62) ~~(59)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(63) ~~(60)~~ Registered Nurse (R.N.). A person currently licensed as such by the Tennessee Board of Nursing.

(64) ~~(61)~~ Registered Record Administrator (RRA). A person currently registered as such by the American Medical Records Association.

(65) ~~(62)~~ Shall or Must. Compliance is mandatory.

(Rule 1200-08-10-.01, continued)

(66) ~~(63)~~ State.A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(67) ~~(64)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(68) ~~(65)~~ Surgical Procedure. A manual or operative method performed by a licensed medical practitioner to treat diseases, injuries, conditions and/or deformities. (As related to pregnancy termination, surgical procedure excludes, but is not limited to, PAP smear or vaginal examinations, ultrasounds, amniocentesis, intramuscular injections.)

(69) ~~(66)~~ Surgical Technologist. A person who works under supervision to facilitate the safe and effective conduct of invasive surgical procedures. This individual is usually employed by a hospital, medical office, or surgical center and supervised during the surgical procedure according to institutional policy and procedure to assist in providing a safe operating room environment that maximizes patient safety by performing certain tasks including, but not limited to:

(a) Preparation of the operating room and the sterile field for surgical procedures by preparing sterile supplies, instruments, and equipment using sterile technique;

(b) Preparation of the operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely; and

(c) Passing instruments, equipment or supplies to a surgeon, sponging or suctioning an operative site, preparing and cutting suture material, holding retractors, transferring but not administering fluids or drugs, assisting in counting sponges, needles, supplies, and instruments, and performing other similar tasks as directed during a surgical procedure.

(70) ~~(67)~~ Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(71) ~~(68)~~ Transfer. The movement of a patient at the direction of a physician or other qualified medical personnel when a physician is not readily available but does not include such movement of a patient who leaves the facility against medical advice.

(72) ~~(69)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

~~(70) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-216, 68-11-224, 68-11-1802, 68-57-101, 68-57-102 and 68-57-105.* ***Administrative History:*** *Original rule filed July 22, 1977; effective August 22, 1977. Amendment filed August 10, 1982; effective September 9, 1982. Repeal and new rule filed June 30, 1992; effective August 14, 1992. Amendment filed March 12, 1993; effective April 26, 1993. Repeal and new rule filed March 21, 2000; effective June 4, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendment filed June 16, 2003; effective August 30, 2003. Amendment filed May 20, 2004; effective August 3, 2004. Amendments filed September 9, 2005; effective November 23, 2005. Amendment filed February 23, 2006; effective May 9, 2006. Amendment filed February 7, 2007;*

(Rule 1200-08-10-.01, continued)
effective April 23, 2007. Amendment filed February 22, 2010; effective May 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012.

1200-08-10-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or state, county, or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain in the State of Tennessee any ASTC as defined, without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30. The license shall be posted in a conspicuous place in the ASTC.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients shall not be admitted to the ASTC until a license has been issued. Applicants shall not hold themselves out to the public as being an ASTC until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules and regulations including submission of all information required by Tennessee Code Annotated § 68-11-206(l), or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the facility.

(e) 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 individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the ambulatory surgical treatment center to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) Each ASTC, when issued a license, shall be classified according to the type of services rendered or category of patients served. The ASTC shall confine its services to those described in its license and shall advertise only the services which it is licensed to perform. The classification shall be listed on the license.

(4) A proposed change of ownership must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For purposes of licensing, the licensee of an ASTC has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of

(Rule 1200-08-10-.05, continued)

(8) The ASTC shall have available a plan for emergency transportation to a licensed local hospital.

(9) The facility must ensure continuity of care and provide an effective discharge planning process that applies to all patients. The facility's discharge planning process, including discharge policies and procedures, must be specified in writing and must:

(a) Be developed and/or supervised by a registered nurse, social worker or other appropriately qualified personnel;

(b) Begin upon admission;

(c) Be provided when identified as a need by the patient, a person acting on the patient's behalf, or by the physician; and

(d) Include the likelihood of a patient's capacity for self-care or the possibility of the patient returning to his or her pre-ambulatory surgical treatment center environment.

(10) A discharge plan is required on every patient, even if the discharge is to home.

(11) The facility must arrange for the initial implementation of the patient's discharge plan and must reassess the patient's discharge plan if there are factors that may affect continuing care needs or the appropriateness of the discharge plan.

(12) As needed, the patient and family members or interested persons must be taught and/or counseled to prepare them for post-operative care.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed July 22, 1977; effective August 22, 1977. Repeal and new rule filed June 30, 1992; effective August 14, 1992. Repeal and new rule filed March 21, 2000; effective June 4, 2000. Amendment filed June 16, 2003; effective August 30, 2003.*

1200-08-10-.06 BASIC SERVICES.

(1) Surgical Services.

(a) Facilities restricted in services they provide, e.g. those that restrict services to radiation therapy or use of local anesthetics only, may be exempted from all or part of the requirements of this rule pertaining to laboratory services, food and dietetic services, surgical services, and anesthesia services.

(b) If the facility provides surgical services, the services must be well organized and provided in accordance with acceptable standards of practice. If outpatient surgical services are offered, the services must be consistent in quality with inpatient care in accordance with the complexity of services offered.

(c) A hospital may choose to separately license a portion of the facility as an Ambulatory Surgical Treatment Center; the licensure fee for such is not required.

(d) The organization of the surgical services must be appropriate to the scope of the services offered.

(e) The operating rooms must be supervised by an experienced registered nurse or a doctor of medicine or osteopathy.

(Rule 1200-08-10-.06, continued)

(f) An ASTC may use scrub nurses in its operating rooms. For the purposes of this rule, a "scrub nurse" is defined as a registered nurse or either a licensed practical nurse (L.P.N.) or a surgical technologist (operating room technician) supervised by a registered nurse who works directly with a surgeon within the sterile field, passing instruments, sponges, and other items needed during the procedure and who scrubs his or her hands and arms with special disinfecting soap and wears surgical gowns, caps, eyewear, and gloves, when appropriate.

(g) Qualified registered nurses may perform circulating duties in the operating room. In accordance with applicable State laws and approved medical staff policies and procedures, LPNs and surgical technologists may assist in circulatory duties under the supervision of a qualified registered nurse who is immediately available to respond to emergencies.

(h) Surgical privileges must be delineated for all practitioners performing surgery in accordance with the competencies of each practitioner. The surgical service must maintain a roster of practitioners specifying the surgical privileges of each practitioner.

(i) Surgical services must be consistent with needs and resources. Policies covering surgical care must be designed to assure the achievement and maintenance of high standards of medical practice and patient care.

(j) Surgical technologists must:

1. Hold current national certification established by the Liaison Council on Certification for the Surgical Technologist (LCC-ST); or

2. Have completed a program for surgical technology accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); or

3. Have completed an appropriate training program for surgical technologists in the armed forces or at a CAAHEP accredited hospital or CAAHEP accredited ambulatory surgical treatment center; or

4. Successfully complete the surgical technologists LCC-ST certifying exam; or

5. Provide sufficient evidence that, prior to May 21, 2007, the person was at any time employed as a surgical technologist for not less than eighteen (18) months in the three (3) years preceding May 21, 2007 in a hospital, medical office, surgery center, or an accredited school of surgical technology; or has begun the appropriate training to be a surgical technologist prior to May 21, 2007, provided that such training is completed within three (3) years of May 21, 2007.

(k) An ASTC can petition the director of health care facilities of the department for a waiver from the provisions of 1200-08-10-.06(1)(j) if they are unable to employ a sufficient number of surgical technologists who meet the requirements. The facility shall demonstrate to the director that a diligent and thorough effort has been made to employ surgical technologist who meet the requirements. The director shall refuse to grant a waiver upon finding that a diligent and thorough effort has not been made. A waiver shall exempt a facility from meeting the requirements for not more than nine (9) months. Additional waivers may be granted, but all exemptions greater than twelve (12) months shall be approved by the Board for Licensing Health Care Facilities.

(Rule 1200-08-10-.06, continued)

~~(l) Surgical technologists shall demonstrate continued competence in order to perform their professional duties in surgical technology. The employer shall maintain evidence of the continued competence of such individuals. Continued competence activities may include but are not limited to continuing education, in-service training, or certification renewal.~~

(l) Surgical technologists shall demonstrate continued competence in order to perform their professional duties in surgical technology. The employer shall maintain evidence of the continued competence of such individuals. Continued competence activities may include but are not limited to continuing education, in-service training, or certification renewal. Persons qualified to be employed as surgical technologists shall complete fifteen (15) hours of continuing education or contact hours annually. Current certification by the National Board of Surgical Technology and Surgical Assisting shall satisfy this requirement.

(m) There must be a complete history and physical work-up in the chart of every patient prior to surgery, except in emergencies. If the history has been dictated, but not yet recorded in the patient's chart, there must be a statement to that effect and an admission note in the chart by the practitioner who admitted the patient.

~~(n) Properly executed informed consent, advance directive, and organ donation forms must be in the patient's chart before surgery, except in emergencies.~~

(n) Properly executed informed consent, advance directive, if available, and organ donation forms, if available, must be in the patient's chart before surgery, except in emergencies.

~~(o) Adequate equipment and supplies must be available to the operating room suites and to the post-operative care area;~~

~~1. Call-in system (OR)~~

~~2. Cardiac monitor~~

~~3. Pulse Oximeter~~

~~4. Resuscitator~~

~~5. Defibrillator~~

~~6. Aspirator~~

~~7. Tracheotomy set~~

(o) Adequate equipment and supplies must be available as determined by the governing body and the medical staff, and must meet the current acceptable standards of practice in the ASTC industry. In conjunction with their governing body and the medical staff, the facility shall develop policies and procedures specifying the types of emergency equipment that are appropriate for the facility's patient population, and shall make the items immediately available at the ASTC to handle inter- or post-operative emergencies.

(Rule 1200-08-10-.06, continued)

~~(p) A crash cart must be available and include at a minimum the following medication and supplies:~~

~~1. adrenalin (epinephrine) 1: 10,000 dilution; 10 ml~~

~~2. adrenalin (epinephrine) 1:1000 dilution; 1 ml~~

~~3. atropine 0.1 mg/ml~~

~~4. benadryl (diphenhydramine)~~

~~5. calcium chloride 10%; 10ml amp~~

~~6. dextrose, 50%~~

~~7. dilantin (phentoin)~~

~~8. dopamine~~

~~9. heparin~~

~~10. inderal (proprandolol)~~

~~11. isuprel~~

~~12. lanoxin (digoxin)~~

~~13. lasix (furosemide)~~

~~14. xylocaine (lidocaine)~~

~~15. magnesium sulfate 50%~~

~~16. narcan (naloxone)~~

~~17. pronestyl (procainaimide)~~

~~18. sodium bicarbonate 50 mEq/50ml~~

~~19. solu-medrol (methylprednisolone)~~

~~20. verapamil hydrochloride~~

~~21. mazicon~~

~~22. Suction devices, endotracheal tubes, laryngoscopes, etc.,~~

~~23. Positive pressure ventilation device (e.g., Ambu) plus oxygen supply.~~

~~24. Double tourniquet for the Bier block procedure.~~

~~25. Emergency intubation equipment.~~

~~26. IV solution and IV equipment.~~

(Rule 1200-08-10-.06, continued)

(p) ~~(q)~~At least one registered nurse shall be in the recovery area during the patient's recovery period.

(q) ~~(r)~~ The operating room register must be complete and up-to-date.

(r) ~~(s)~~ An operative report describing techniques, findings, and tissues removed or altered must be written or dictated immediately following surgery and signed by the surgeon.

(s) ~~(t)~~ The ASTC shall provide one or more surgical suites which shall be constructed, equipped, and maintained to assure the safety of patients and personnel.

(t) (u) Surgical suites are required to meet the same standards as hospital operating rooms, including those using general anesthesia.

(u) ~~(v)~~The ASTC shall have separate areas for waiting rooms, recovery rooms, treatment and/or examining rooms.

(2) Anesthesiology Services. Anesthesia shall be administered by:

(a) A qualified anesthesiologist;

(b) A doctor of medicine or osteopathy (other than an anesthesiologist);

(c) A dentist, oral surgeon, or podiatrist who is qualified to administer anesthesia under State law;

(d) A certified registered nurse anesthetist (CRNA); or

(e) A graduate registered nurse anesthetist under the supervision of an anesthesiologist who is immediately available if needed.

(f) After the completion of anesthesia, patients shall be constantly attended by competent personnel until responsive and able to summon aid. Each center shall maintain a log of the inspections made prior to each day's use of the anesthesia equipment. A record of all service and maintenance performed on all anesthesia machines, vaporizers and ventilators shall also be on file.

(g) When general anesthesia and/or succinylcholine are administered, the facility shall maintain thirty-six (36) ampules of dantrolene for injection on site. If dantrolene is administered, appropriate monitoring must be provided post operatively.

(h) Written policies and procedures relative to the administration of anesthesia shall be developed and approved by the Medical Staff and governing body.

(i) Any patient receiving conscious sedation shall receive:

1. continuous EKG monitoring;

2. continuous oxygen saturations;

3. serial BP monitoring at intervals no less than every 5 minutes; and

4. supplemental oxygen therapy and immediately available:

(i) ambubag;

(Rule 1200-08-10-.06, continued)

(ii) suction;

(iii) endotracheal tube; and

(iv) crash cart.

(3) Medical Staff.

(a) The ASTC shall have a medical staff organized under written by-laws that are approved by the governing body. The medical staff of the ASTC shall define a mechanism to:

1. Assure that an optimal level of professional performance is maintained;

2. Appoint independent practitioners through a defined credentialing process;

3. Apply credentialing criteria uniformly;

4. Utilize the current license, relevant training and experience, current competence and the ability to perform requested privileges in the credentialing process; and

5. Provide for participation in required committees of the facility to ensure that quality medical care is provided to the patients.

(b) Each licensed independent practitioner shall provide care under the auspices of the facility in accordance with approved privileges.

(c) Clinical privileges shall be granted based on the practitioners' qualifications and the services provided by the facility, and shall be reviewed and/or revised at least every two (2) years.

(4) Nursing Service. A licensed registered nurse (R.N.) shall be on duty at all times. Additional appropriately trained staff shall be provided as needed to ensure that the medical needs of the patients are fully met.

(a) The ASTC shall be organized under written policies and procedures relating to patient care, establishment of standards for nursing care and mechanisms for evaluating such care and nursing services.

(b) A qualified registered nurse designated by the administrator shall be responsible for coordinating and supervising all nursing services.

(c) There shall be a sufficient staffing pattern of registered nurses to provide quality nursing care to each surgical patient from admission through discharge. Additional staff shall be on duty and available to assist the professional staff to adequately handle routine and emergency patient needs.

(d) The ASTC shall establish written procedures for emergency services which will ensure that professional staff members who have been trained in emergency resuscitation procedures shall be on duty at all times when there is a patient in the ASTC and until the patient has been discharged.

(e) Nursing care policies and procedures shall be consistent with professionally recognized standards of nursing practice and shall be in accordance with the Nurse Practice Act of

(Rule 1200-08-10-.06, continued)

the State of Tennessee and the Association of Operating Room Nurses Standards of Practice.

(f) Staff development and training shall be provided to the nursing staff and other ancillary staff in order to maintain and improve knowledge and skills. The educational/training program shall be planned, documented and conducted on a continuing basis. There shall be at least appropriate training on equipment, safety concerns, infection control and emergency care on an annual basis.

(5) Pharmaceutical Services. The ASTC must provide drugs and biologicals in a safe and effective manner in accordance with accepted standards of practice. Such drugs and biologicals must be stored in a separate room or cabinet which shall be kept locked at all times.

(6) Ancillary Services. All ancillary or supportive health or medical services, including but not limited to, radiological, pharmaceutical, or medical laboratory services shall be provided in accordance with all applicable state and federal laws and regulations.

(7) Radiological Services. The ASTC shall provide within the facility, or through arrangement, diagnostic radiological services commensurate with the needs of the ambulatory surgical treatment center.

(a) If radiological services are provided by facility staff, the services shall be maintained free of hazards for patients and personnel.

(b) New installations of radiological equipment, and subsequent inspections for the identification of radiation hazards shall be made as specified in state and federal requirements.

(c) Personnel monitoring shall be maintained for each individual working in the area of radiation. Readings shall be on at least a monthly basis and reports kept on file and available for review.

1. Personnel - The ASTC shall have a radiologist either full-time or part-time on a consulting basis, both to supervise the service and to discharge professional radiological services.

2. The use of all radiological apparatus shall be limited to personnel designated as qualified by the radiologist; and use of fluoroscopes shall be limited to physicians.

(d) If provided under arrangement with an outside provider, the radiological services must be directed by a qualified radiologist and meet state and federal requirements.

(8) Laboratory Services.

(a) The ASTC shall provide on the premises or by written agreement with a laboratory licensed under T.C.A. 68-29-105, a clinical laboratory to provide those services commensurate with the needs and services of the ASTC.

(b) Any patient terminating pregnancy in an ASTC shall have an Rh type, documented prior to the procedure, performed on her blood. In addition, she shall be given the opportunity to receive Rh immune globulin after an appropriate crossmatch procedure is performed within a licensed laboratory.

(Rule 1200-08-10-.06, continued)

(9) Food and Dietetic Services. If a patient will be in the facility for more than four (4) hours post-op, an appropriate diet shall be provided.

(10) Environmental Services.

(a) The facility shall provide a safe, accessible, effective and efficient environment of care consistent with its mission, service, law and regulation.

(b) The facility shall develop policies and procedures that address:

1. Safety;

2. Security;

3. Control of hazardous materials and waste;

4. Emergency preparedness;

5. Life safety;

6. Medical equipment; and,

7. Utility systems.

(c) Staff shall have been oriented to and educated about the environment of care and possess knowledge and skills to perform responsibilities under the environment of care policies and procedures.

(d) Utility systems, medical equipment, life safety elements, and safety elements of the environment of care shall be maintained, tested and inspected.

(e) Safety issues shall be addressed and resolved.

(f) Appropriate staff shall participate in implementing safety recommendations and monitoring their effectiveness.

(g) The building and grounds shall be suitable to services provided and patients served.

(11) Medical Records.

(a) The ASTC shall comply with the Medical Records Act of 1974, T.C.A. § 68-11-301, et seq.

(b) A medical record shall be maintained for each person receiving medical care provided by the ASTC and shall include:

1. Patient identification;

2. Name of nearest relative or other responsible agent;

3. Identification of primary source of medical care;

4. Dates and times of visits;

5. Signed informed consent;

(Rule 1200-08-10-.06, continued)

6. Pertinent medical history;

7. Diagnosis;

8. Physician examination report;

9. Anesthesia records of pertinent preoperative and postoperative reports including preanesthesia evaluation, type of anesthesia, technique and dosage used;

10. Operative report;

11. Discharge summary, including instructions for self care and instructions for obtaining postoperative emergency care;

12. Reports of all laboratory and diagnostic procedures along with tests performed and the results authenticated by the appropriate personnel; and,

13. X-ray reports.

(c) Medical records shall be current and confidential. Medical records and copies thereof shall be made available when requested by an authorized representative of the board or the department.

Rule 1200-08-10-.06 Basic Services is amended by adding new paragraph (12) and its subparagraphs, parts and subparts, which shall read:

(12) Invasive Procedures

(a) Only a medical doctor, licensed pursuant to *T.C.A. § 63-6-101 et seq.*, or an osteopathic physician, licensed pursuant to *T.C.A. § 63-9-101 et seq.*, who meet the following qualifications will be permitted to perform invasive procedures of the spine, spinal cord, sympathetic nerves of the spine or block of major peripheral nerves of the spine:

1. Board certified through the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA) or the American Board of Physician Specialties (ABPS)/American Association of Physician Specialists (AAPS) in one of the following medical specialties:

(i) Anesthesiology;

(ii) Neurological surgery, or Neuromusculoskeletal medicine;

(iii) Orthopedic surgery;

(iv) Physical medicine and rehabilitation;

(v) Radiology; or

(vi) Any other board certified physician who had completed an ABMS subspecialty board in pain medicine or completed an ACGME accredited pain fellowship;

2. A recent graduate in a medical specialty listed in part 1 not yet eligible to apply for ABMS, AOA, or ABPS/AAPS board certification; provided, there is a practice

(Rule 1200-08-10-.06, continued)

relationship with a medical doctor or an osteopathic physician who meets the requirements of part 1.;

3. A licensee who is not board certified in one of the specialties listed in part 1, but is board certified in a different ABMS, AOA, or ABPS/AAPS specialty and has completed a post-graduate training program in interventional pain management approved by the board;

4. A licensee who serves as a clinical instructor in pain medicine at an accredited Tennessee medical training program; or

5. A licensee who has an active pain management practice in a clinic accredited in outpatient interdisciplinary pain rehabilitation by the Commission on Accreditation of Rehabilitation Facilities or any successor organizations.

(b) An advanced practice nurse or physician assistant shall only perform invasive procedures involving any portion of the spine, spinal cord, sympathetic nerves of the spine or block of major peripheral nerves of the spine under the direct supervision of a medical doctor or an osteopathic physician who meets the qualifications of Rule 1200-08-10-.06 (12)(a)1 or 3. Direct supervision is defined as being physically present in the center at the time the invasive procedure is performed.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68, 68-11-209, 68-11-216, 68-57-101, 68-57-102, 68-57-104, and 68-57-105.* ***Administrative History:*** *Original rule filed July 22, 1977; effective August 22, 1977. Amendment filed September 10, 1991; effective October 25, 1991. Repeal and new rule filed June 30, 1992; effective August 14, 1992. Repeal and new rule filed March 21, 2000; effective June 4, 2000. Amendment filed June 16, 2003; effective August 30, 2003. Amendment filed February 23, 2006; effective May 9, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed February 22, 2010; effective May 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-10-.07 RESERVED.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-209, and 68-57-105.* ***Administrative History:*** *Original rule filed June 30, 1992; effective August 14, 1992. Repeal and new rule filed March 4, 2000; effective June 4, 2000. Amendment filed June 16, 2003; effective August 30, 2003. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-10-.08 BUILDING STANDARDS.

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

(2) 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, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; and the 2005 edition of the National Electrical Code. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina

(Rule 1200-08-10-.12, continued)

(2) Each patient has a right to self-determination, which encompasses the right to make choices regarding life-sustaining treatment (including resuscitative services). This right of self-determination may be effectuated by an advance directive.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed July 22, 1977; effective August 22, 1977. Repeal and new rule filed June 30, 1992; effective August 14, 1992. Repeal and new rule filed March 21, 2000; effective June 4, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed September 9, 2005; effective November 23, 2005.*

1200-08-10-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each ambulatory surgical treatment center shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a patient who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual patients. 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 patient could have made while having capacity, or may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to authorize the agent to make any health care decision the patient could have made while having capacity.

(3) The advance directive shall be in writing, signed by the patient, 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 patient by blood, marriage, or adoption and would not be entitled to any portion of the estate of the patient upon the death of the patient. 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 authority of an agent becomes effective only upon a determination that the patient lacks capacity, and ceases to be effective upon a determination that the patient has recovered capacity.

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a patient lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.

(7) An agent shall make a health care decision in accordance with the patient'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 patient's best interest. In determining the patient's best interest, the agent shall consider the patient's personal values to the extent known.

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

(Rule 1200-08-10-.13, continued)

(9) A health care facility 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 patient'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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 patient 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 patient 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

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

1. the patient has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(c) In the case of a patient who lacks capacity, the patient's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the patient is receiving health care.

(d) The patient's surrogate shall be an adult who has exhibited special care and concern for the patient, who is familiar with the patient'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:

(Rule 1200-08-10-.13, continued)

1. the patient's spouse, unless legally separated;

2. the patient's adult child;

3. the patient's parent;

4. the patient's adult sibling;

5. any other adult relative of the patient; or

6. any other adult who satisfies the requirements of 1200-08-10-.13(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 patient shall be eligible to serve as the patient'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 known wishes of the patient or in accordance with the patient's best interests;

2. The proposed surrogate's regular contact with the patient 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 patient 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 patient lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-10-.13(16)(c) thru 1200-08-10-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the patient after the designated 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 patient'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 patient's individual instructions, if any, and other wishes to the extent known to the surrogate.

(Rule 1200-08-10-.13, continued)

Otherwise, the surrogate shall make the decision in accordance with the surrogate's determination of the patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal values to the extent known to the surrogate.

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

(l) Except as provided in 1200-08-10-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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 patient's treating health care provider.

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

1. the employee so designated is a relative of the patient 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 patient to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.

(17) Guardian.

(a) A guardian shall comply with the patient's individual instructions and may not revoke the patient'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 patient 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 patient 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 the determination in the patient's current clinical record and communicate the determination to the patient, if possible, and to any person then authorized to make health care decisions for the patient.

(19) Except as provided in 1200-08-10-.13(20) thru 1200-08-10-.13(22), a health care provider or institution providing care to a patient shall:

(Rule 1200-08-10-.13, continued)

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

(b) comply with a health care decision for the patient made by a person then authorized to make health care decisions for the patient to the same extent as if the decision had been made by the patient 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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient.

(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 1200-08-10-.13(20) thru 1200-08-10-.13(22) shall:

(a) promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient;

(b) provide continuing care to the patient until a transfer can be effected or until the determination has been made that transfer cannot be effected;

(c) unless the patient or person then authorized to make health care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health care provider or institution that is willing to comply with the instruction or decision; 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 patient has the same rights as the patient 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 patient, including a decision to withhold or withdraw health care;

(Rule 1200-08-10-.13, continued)

(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 for such identification 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 patient 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 may be used by a physician for a patient with whom the physician 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 patient is an adult who is capable of making an informed decision, the patient'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 patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient'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 or by the department of mental health and developmental disabilities or operated, licensed, or owned by another state agency are authorized to follow universal do not resuscitate orders.~~

(Rule 1200-08-10-.13, continued)

~~(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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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 patient 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

(Rule 1200-08-10-.13, continued)

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or

(Rule 1200-08-10-.13, continued)

owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed June 22, 1992; effective August 6, 1992. Repeal and new rule filed March 21, 2000; effective June 4, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed September 9, 2005; effective November 23, 2005. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-10-.14 DISASTER PREPAREDNESS.

(1) The administration of every facility shall have in effect and available for all supervisory personnel and staff, written copies of the following required disaster plans for the protection of all persons in the event of fire and other emergencies for evacuation to areas of refuge and/or evacuation from the building. A detailed log with staff signatures of training received shall be maintained. All employees shall be trained annually as required in the following plans and shall be kept informed with respect to their duties under the plans. A copy of the plans and the specific emergency numbers related to that type of disaster shall be readily available at all times. Each of the following plans shall be exercised annually:

(a) Fire Safety Procedures Plan shall include:

1. Minor fires;

2. Major fires;

3. Fighting the fire;

1200-08-10-.15 APPENDIX I

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

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

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(Rule 1200-08-10-.15, continued)

A COPY OF THIS 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) (Allow Natural Death) 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 & NUTRITION.** Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-10-.15, continued)

~~Name (print)~~	~~Signature~~	~~Relationship (write "self" if patient)~~	
~~Surrogate~~	~~Relationship~~	~~Phone Number~~	
~~Health Care Professional Preparing Form~~	~~Preparer Title~~	~~Phone Number~~	~~Date Prepared~~

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-10-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____
Section D *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/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date NP/CNS/PA (Signature at Discharge)	MD/NP/CNS/PA Phone Number:

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-10-.15, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-10-.15, continued)
Other instructions, such as burial arrangements, hospice care, etc.: _____

_____
_____
_____
_____
_____
(Attach additional pages if necessary)

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

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____
_____
_____
_____
☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-10-.15, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-11
STANDARDS FOR HOMES FOR THE AGED

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1200-08-11-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ Activities of Daily Living (ADL's). Those personal functional activities which indicate an individual's independence in eating, dressing, personal hygiene, bathing, toileting, and moving from one place to another.

(3) ~~(2)~~ Adult. An individual who has capacity and is at least 18 years of age.

(4) ~~(3)~~ Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) ~~(4)~~ Aged. A person who is fifty-five (55) years of age or older.

(6) ~~(5)~~ Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(7) ~~(6)~~ Ambulatory resident. A resident who is physically and mentally capable under emergency conditions of finding a way to safety without physical assistance from another person. An ambulatory resident may use a cane, wheelchair or other supportive device and may require verbal prompting.

(8) ~~(7)~~ Board. The Tennessee Board for Licensing Health Care Facilities.

(9) ~~(8)~~ Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a resident to make health care decisions while having the capacity to do so. A resident shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a resident shall have the burden of proving lack of capacity.

(10) ~~(9)~~ Cardiopulmonary Resuscitation (CPR). The administering of any means or device to restore or support cardiopulmonary function in a resident, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal

(Rule 1200-08-11-.01, continued)

intubation, manual or mechanical ventilators or respirations, 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.

(11) ~~(10)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(12) ~~(11)~~ Department. The Tennessee Department of Health.

(13) ~~(12)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(14) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(15) ~~(13)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(16) ~~(14)~~ Emergency. Any situation or condition which presents an imminent danger of death or serious physical or mental harm to residents.

(17) ~~(15)~~ Emergency responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(18) ~~(16)~~ Evacuation Capability. The ability to either evacuate the building or move to a point of safety.

(19) ~~(17)~~ Guardian. A judicially appointed guardian of conservator having authority to make a health care decision

(20) ~~(18)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state, or federal regulations.

(21) ~~(19)~~ Health Care. 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)

(22) ~~(20)~~ Health care decision. Consent, refusal or consent or withdrawal of consent to health care.

(23) ~~(21)~~ Health Care Decision-maker. 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 healthcare decision-making authority, the resident's surrogate as determined pursuant to Rule 1200-08-11-.12 or T.C.A. 33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(24) ~~(22)~~ Health Care Institution. A health care institution as defined in T.C.A. 68-11-1602.

(Rule 1200-08-11-.01, continued)

(25) ~~(23)~~ Health Care Provider A person who si licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(26) ~~(24)~~ Holding Out to the Public. Advertising or soliciting the public through the use of personal, telephone, mail or other forms of communication to provide information about services provided by the facility.

(27) ~~(25)~~ Home for the Aged. A home represented and held out to the general public as a home which accepts primarily aged persons for relatively permanent, domiciliary care with primarily being defined as 51% or more of the population of the home for the aged. It provides room, board and personal services to four (4) or more nonrelated persons. The term home includes any building or part thereof which provides services as defined in these rules.

(28) ~~(26)~~ Home for the Aged Resident. A person who is ambulatory and who requires permanent, domiciliary care but who will be transferred to a licensed hospital, licensed nursing home or licensed assisted care living facility when health care services are needed which must be provided in such other facilities.

(29) ~~(27)~~ Incompetent. A resident who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(30) ~~(28)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(32) ~~(30)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(33) ~~(31)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(34) ~~(32)~~ Medically Inappropriate Treatment Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the resident or other medical or surgical treatments to achieve the expressed goals of the informed resident. In the case of the incompetent resident, the resident's representative expresses the goals of the resident

(35) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(36) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness, however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(37) ~~(33)~~ N.F.P.A. The National Fire Protection Association.

~~(34) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to~~

(Rule 1200-08-11-.01, continued)

~~maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(38) ~~(35)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(39) ~~(36)~~ Personal Services. Those services that are rendered to residents who need supervision or assistance in activities of daily living. Personal services must include protective care of the resident, responsibility for the safety of the resident when in the facility, daily awareness of the resident's whereabouts and the ability and readiness to intervene if crises arise. Personal services do not include nursing or medical care.

(40) ~~(37)~~ Personally Informing. A communication by any effective means from the resident directly to a health care provider.

(41) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(42) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(43) ~~(38)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2

(44) ~~(39)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency services personnel providers, or entities acting within the usual course of their professions, and other emergency responders.

(45) ~~(40)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the resident's health care needs. Such availability shall include, but not limited to, availability by telephone.

(Rule 1200-08-11-.01, continued)

(46) ~~(41)~~ Responsible Attendant. The person designated by the licensee who remains awake to provide personal services to the residents. In the absence of the licensee, the responsible attendant is responsible for ensuring the home complies with all rules and regulations.

(47) ~~(42)~~ Secured Unit. A facility or distinct part of a facility where the residents are intentionally denied egress by any means.

(48) ~~(43)~~ Shall or Must. Compliance is mandatory.

(49) ~~(44)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(50) ~~(45)~~ Supervising Heath Care Provider. The designated physician or, if there is no designated physician ot the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(51) ~~(46)~~ Surrogate. An individual, other that a resident's agent or guardian, authorized to make a health care decision for the resident.

(52) ~~(47)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the resident.

~~(48) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-216, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed June 21, 1979; effective August 6, 1979. Amendment filed August 16, 1988; effective September 30, 1988. Amendment filed January 30, 1992; effective March 15, 1992. Amendment filed December 7, 1993; effective February 20, 1994. Repeal and new rule filed July 27, 2000; effective October 10, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003.Amendment filed September 8, 2006; effective November 22, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-11-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate, or maintain in the State of Tennessee any home for the aged without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the facility.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee based on the number of beds as follows:

(Rule 1200-08-11-.11, continued)

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

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

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

(18) To execute, modify, or rescind a Living Will.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed June 21, 1997; effective August 6, 1979. Amendment filed August 16, 1988; effective September 30, 1988. Repeal and new rule filed July 27, 2000; effective October 10, 2000.*

1200-08-11-.12 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each home for the aged 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 may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to 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 estate of the resident upon the death of the resident. 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 authority of an agent becomes effective only upon a determination that the resident lacks capacity, and ceases to be effective upon a determination that the resident has recovered capacity.

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a resident lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.

(Rule 1200-08-11-.12, continued)

(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) A health care facility 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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

(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 resident has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(Rule 1200-08-11-.12, continued)

(c) In the case of a resident who lacks capacity, the resident's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the resident is receiving health care.

(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, 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 1200-08-11-.12(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 known wishes of the resident or in accordance with the resident's 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 1200-08-11-.12(16)(c) thru 1200-08-11-.12(16)(g) is reasonably available, the designated physician may make health care decisions for the resident after the designated 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,

(Rule 1200-08-11-.12, continued)

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 to the surrogate.

(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 1200-08-11-.12(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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) An employee of the treating health care provider or an employee of an operator of a health care institution may be designated as a surrogate 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.

(Rule 1200-08-11-.12, continued)

(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 the 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 1200-08-11-.12(20) thru 1200-08-11-.12(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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated 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 1200-08-11-.12(20) thru 1200-08-11-.12(22) shall:

(a) promptly so inform the resident, if possible, and any person then authorized to make health care decisions for the resident;

(b) provide continuing care to the resident until a transfer can be effected or until the determination has been made that transfer cannot be effected;

(c) unless the resident or person then authorized to make health care decisions for the resident refuses assistance, 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; 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.

(Rule 1200-08-11-.12, continued)

(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 for such identification 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 may be used by a physician for a patient with whom the physician 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.~~

(Rule 1200-08-11-.12, continued)

~~(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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

(Rule 1200-08-11-.12, continued)

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, qualified emergency

(Rule 1200-08-11-.12, continued)

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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed June 22, 1992; effective August 6, 1992. Repeal and new rule filed July 27, 2000; effective October 10, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Amendment filed September 8, 2006; effective November 22, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-11-.13 DISASTER PREPAREDNESS.

(1) The administration of every facility shall have in effect and available for all supervisory personnel and staff, written copies of the following required disaster plans for the protection of all persons in the event of fire and other emergencies for evacuation to areas of refuge and/or evacuation from the building. A detailed log with staff signatures of training received shall be maintained. All employees shall be trained annually as required in the following plans and shall be kept informed with respect to their duties under the plans. A copy of the plans and the specific emergency numbers related to that type of disaster shall be readily available at all times. Each of the following plans shall be exercised annually:

(a) Fire Safety Procedures Plan shall include:

(Rule 1200-08-11-.13, continued)

(2) All facilities shall participate in the Tennessee Emergency Management Agency local/county emergency plan on an annual basis. Participation includes filling out and submitting a questionnaire on a form to be provided by the Tennessee Emergency Management Agency. Documentation of participation must be maintained and shall be made available to survey staff as proof of participation.

(3) For facilities which elect to have an emergency generator, the generator shall be designed to meet the facility's HVAC and essential needs and 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 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, and a monthly log shall be maintained by the facility. The facility shall have trained staff familiar with the generator's operation.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Repeal and new rule filed July 27, 2000; effective October 10, 2000.*

1200-08-11-.14 APPENDIX I

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

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

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(Rule 1200-08-11-.14, continued)

A COPY OF THIS 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) (Allow Natural Death)** 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:*_____

(Rule 1200-08-11-.14, continued)

~~Section D~~ ~~*Check One Box Only in Each Column*~~	~~MEDICALLY ADMINISTERED FLUIDS & NUTRITION. Oral fluids & 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 Signature (Mandatory) Date~~	~~Physician Phone Number~~

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

~~Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.~~

~~Name (print)~~	~~Signature~~	~~Relationship (write "self" if patient)~~	
~~Surrogate~~	~~Relationship~~	~~Phone Number~~	
~~Health Care Professional Preparing Form~~	~~Preparer Title~~	~~Phone Number~~	~~Date Prepared~~

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

(Rule 1200-08-11-.14, continued)

~~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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-11-.14, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____
Section D *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/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date NP/CNS/PA (Signature at Discharge)	MD/NP/CNS/PA Phone Number:

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-11-.14, continued)

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-11-.14, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that

(Rule 1200-08-11-.14, continued)
medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-11-.14, continued)

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

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-11-.14, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
THE TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-15
STANDARDS FOR RESIDENTIAL HOSPICES

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1200-08-15-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ Administrator. An individual appointed by a governing body who is responsible for the day to day management of the hospice program.

(3) ~~(2)~~ Adult. An individual who has capacity and is at least 18 years of age.

(4) ~~(3)~~ Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) ~~(4)~~ Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) ~~(5)~~ Bereavement Counseling. Counseling services provided to the patient's or resident's family both prior to and after the patient's or resident's death.

(7) ~~(6)~~ Bereavement Counselor. An individual who has at least a bachelor's degree in social work, counseling, psychology, pastoral care, or specialized training or experience in bereavement theory and counseling.

(8) ~~(7)~~ Board. The Tennessee Board for Licensing Health Care Facilities.

(9) ~~(8)~~ Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient or resident to make health care decisions while having the capacity to do so. A patient or resident shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient or resident shall have the burden of proving lack of capacity.

(10) ~~(9)~~ Cardiopulmonary Resuscitation (CPR). The administering of any means or device to support cardiopulmonary functions in a patient or resident, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilations or respirations, defibrillation, the

(Rule 1200-08-15-.01, continued)

administration of drugs and/or chemical agents intended to restore cardiac and/or respiratory functions in a patient or resident where cardiac or respiratory arrest has occurred or is believed to be imminent.

(11) ~~(10)~~ Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.

(12) ~~(11)~~ Clinical Note. A written and dated notation containing a patient or_resident assessment, responses to medications, treatments and services, and/or any changes in condition signed by a health team member who made contact with the patient or resident.

(13) ~~(12)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(14) ~~(13)~~ Competent. A patient or resident who has capacity.

(15) ~~(14)~~ Core Services. Services consisting of nursing, medical social services, physician services and counseling services.

(16) ~~(15)~~ Department. The Tennessee Department of Health.

(17) ~~(16)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(18) ~~(17)~~ Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners. Persons exempt from licensure shall be registered with the American Diabetics Association pursuant to T.C.A. §63-25-204.

~~(18) Do Not Resuscitate (DNR) Order. An order entered by the patient's or resident's treating physician in the patient's medical records which states that in the event the patient or 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.~~

(19) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(20) ~~(19)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(21) ~~(20)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(22) ~~(21)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(23) ~~(22)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state, or federal regulations.

(24) ~~(23)~~ Health Care. 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).

(Rule 1200-08-15-.01, continued)

(25) ~~(24)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(26) ~~(25)~~ Health Care Decision-maker. In the case of a patient or resident who lacks capacity, the patient's or resident's health care decision-maker is one of the following: the patient's or resident's health care agent as specified in an advance directive, the patient's or resident's court-appointed guardian or conservator with health care decision-making authority, the patient's or resident's surrogate as determined pursuant to Rule 1200-08-15-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(27) ~~(26)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(28) ~~(27)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(29) ~~(28)~~ HIV Resident. An individual who is in need of domiciliary care and who has been diagnosed and certified in writing by a licensed physician as being HIV (human immunodeficiency virus) positive.

(30) ~~(29)~~ Home Care Organization. As defined by T.C.A. § 68-11-201 "home care organization" provides home health services, home medical equipment services or hospice services to patients on an outpatient basis in either their regular or temporary place of residence.

(31) ~~(30)~~ Home Health Aide/Hospice Aide. A person who has completed a total of seventy-five (75) hours of training which included sixteen (16) hours of clinical training prior to or during the first three (3) months of employment and who is qualified to provide basic services, including simple procedures as an extension of therapy services, personal care regarding nutritional needs, ambulation and exercise.

(32) ~~(31)~~ Hospice Care Clinical Coordinator. A person identified as being responsible for the clinical management of all aspects of a hospice program. The hospice clinical coordinator must have at least one (1) year of supervisory experience in hospice or home health care and be either a licensed physician or a registered nurse.

(33) ~~(32)~~ Hospice Patient. An individual who:

(a) Has been diagnosed as terminally ill;

(b) Has been certified in writing by a physician to have an anticipated life expectancy of six (6) months or less; and,

(c) Has voluntarily requested admission to, and been accepted by a licensed hospice.

~~(33) Hospice Services. A coordinated program of care, under the direction of an identifiable hospice administrator, which provides palliative and supportive medical and other services to hospice patients and their families. Hospice services shall be provided twenty-four (24) hours a day, seven (7) days a week.~~

(34) Hospice Services. As defined by T.C.A. § 68-11-201, "hospice services" means a coordinated program of care, under the direction of an identifiable hospice administrator, providing palliative and supportive medical and other services to hospice patients and their families in the patient's regular or temporary place of residence. Hospice services shall be available twenty-four (24) hours a day, seven (7) days a week pursuant to the

(Rule 1200-08-15-.01, continued)

patient's Hospice plan of care. A licensed hospice may provide services to a non-hospice patient; provided, that services to a non-hospice patient shall be limited to palliative care only.

(35) ~~(34)~~ Incompetent. A patient or resident who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(36) ~~(35)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(38) ~~(37)~~ Involuntary Transfer. The movement of a patient or resident without the consent of the resident, the resident's legal guardian, next of kin or representative, with required notification to the appropriate agencies.

(39) ~~(38)~~ Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(40) ~~(39)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(41) ~~(40)~~ Licensed Psychologist. A person currently licensed as such by the Tennessee Board of Examiners in Psychology.

(42) ~~(41)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(43) ~~(42)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(44) ~~(43)~~ Medical Director. A licensed physician employed by the residential hospice to be responsible for medical care in the facility.

(45) ~~(44)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's or resident's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(46) ~~(45)~~ Medical Record. Medical histories, records, reports, clinical notes, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, and other written electronics, or graphic data prepared, kept, made or maintained in an agency that pertains to confinement or services rendered to patients and residents.

(47) ~~(46)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or resident or other medical or surgical treatments to achieve the expressed goals of the informed patient or resident. In the case of the incompetent patient or resident, the patient's or resident's representative expresses the goals of the patient or resident.

(48) ~~(47)~~ Medical Social Services. When provided, shall be given by a certified master social worker, a licensed clinical social worker, or by a social worker or social work assistant employed by the residential hospice and under the supervision of a certified master social

(Rule 1200-08-15-.01, continued)

worker or licensed clinical social worker, and in accordance with the plan of care. The medical social services provider shall assist the physician and other team members in understanding the significant social and emotional factors related to the health problems, participate in the development of the plan of care, prepare clinical and progress notes, work with the family, utilize appropriate community resources, participate in discharge planning and in-service programs, and act as a consultant to other organization personnel.

(49) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(50) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(51) ~~(48)~~ N.F.P.A. The National Fire Protection Association.

(52) ~~(49)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(53) ~~(50)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(54) ~~(51)~~ Palliative. The reduction or abatement of pain or troubling symptoms by appropriate coordination of all elements of the hospice care team to achieve needed relief of distress.

~~(52) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(55) ~~(53)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(56) ~~(54)~~ Personally Informing. A communication by any effective means from the patient or resident directly to a health care provider.

(57) ~~(55)~~ Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.

(58) ~~(56)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(59) ~~(57)~~ Physical Therapist Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(60) ~~(58)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

(61) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(62) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(63) ~~(59)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(64) ~~(60)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(65) ~~(61)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's or resident's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(66) ~~(62)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(67) ~~(63)~~ Residential Hospice. A licensed homelike residential facility designed, staffed and organized to provide hospice and/or HIV care services, except such services shall be provided at such residential facility rather than the patient's or resident's regular or temporary place of residence. A residential hospice shall not provide hospice and/or HIV care services to any person other than a hospice and/or HIV resident.

(68) ~~(64)~~ Respiratory Therapist. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(69) ~~(65)~~ Respiratory Therapy Technician. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(70) ~~(66)~~ Respite Care. A short-term period of inpatient care provided to a hospice patient only when necessary to relieve the family members or other persons caring for the patient.

(71) ~~(67)~~ Secured Unit. A facility or distinct part of a facility where the residents are intentionally denied egress by any means.

(Rule 1200-08-15-.01, continued)

(72) ~~(68)~~ Shall or Must. Compliance is mandatory.

(73) ~~(69)~~ Social Worker. An individual who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education and has one (1) year of social work experience in a health care setting.

(74) ~~(70)~~ Social Work Assistant. A person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work, and has at least one (1) year of social work experience in a health care setting. Social work related fields include bachelor/masters degrees in psychology, sociology, human services (behavioral sciences, not human resources), masters degree in counseling fields (psychological guidance and guidance counseling) and degrees in gerontology.

(75) ~~(71)~~ Speech Language Pathologist. A person currently licensed as such by The Tennessee Board of Communication Disorders and Sciences.

(76) ~~(72)~~ Spiritual Counselor. A person who has met the requirements of a religious organization to serve the constituency of that organization.

(77) ~~(73)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(78) ~~(74)~~ Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board or equivalent body.

(79) ~~(75)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(80) ~~(76)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these regulations.

(81) ~~(77)~~ Surrogate. An individual, other than a patient's or resident's agent or guardian, authorized to make a health care decision for the patient or resident.

(82) ~~(78)~~ Terminally ill. An individual with a medical prognosis that his or her life expectancy is six (6) months or less if the illness runs its normal course.

(83) ~~(79)~~ Transfer. The movement of a patient or resident at the direction of a physician or other qualified medical personnel when a physician is not readily available, but does not include such movement of a patient or_resident who leaves the facility against medical advice.

(84) ~~(80)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient or resident.

~~(81) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

(Rule 1200-08-15-.01, continued)

(85) ~~(82)~~ Volunteer. An individual who agrees to provide services to a hospice care patient or HIV resident and/or family member(s), without monetary compensation, with appropriate supervision by the facility.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed November 22, 2005; effective February 5, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-15-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate, or maintain in the State of Tennessee any residential hospice without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic area specified by the certificate of need or at the time of the original licensing. The name of the residential hospice shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the residential hospice.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee based on the number of beds as follows:

1. Less than 25 beds $ 800.00
2. 25 to 49 beds, inclusive $1,025.00
3. 50 to 74 beds, inclusive $1,225.00
4. 75 to 99 beds, inclusive $1,425.00
5. 100 to 124 beds, inclusive $ 1,625.00
6. 125 to 149 beds, inclusive $ 1,825.00
7. 150 to 174 beds, inclusive $ 2,025.00
8. 175 to 199 beds, inclusive $ 2,225.00

For residential hospice of two hundred (200) beds or more the fee shall be two thousand four hundred twenty-five dollars ($2,425.00) plus two hundred dollars ($200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients or residents shall not be admitted to the residential hospice until a license has been

(Rule 1200-08-15-.05, continued)

(g) An up-to-date listing of any incidences of decubitus and/or nosocomial infections, including resident identifiers; and,

(h) Documentation showing that 100% of the staff working on the unit receives and has received annual in-service training which shall include, but not be limited to the following subject areas:

1. Basic facts about the causes, progression and management of Alzheimer's Disease and related disorders;

2. Dealing with dysfunctional behavior and catastrophic reactions in the residents;

3. Identifying and alleviating safety risks to the resident;

4. Providing assistance in the activities of daily living for the resident; and,

5. Communicating with families and other persons interested in the resident.

(18) Any residential facility licensed by the board of licensing health care facilities shall upon admission provide to each resident the division of adult protective services' statewide toll-free number: 888-277-8366.

Authority**: T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 71-6-121.* ***Administrative History: *Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed April 20, 2006; effective July 4, 2006.*

1200-08-15-.06 BASIC HOSPICE FUNCTIONS.

(1) Core Functions. A residential hospice must ensure that substantially all core services are routinely provided directly by hospice employees. A residential hospice may use contracted staff if necessary to supplement residential hospice employees in order to meet the needs of patients and residents.

(a) Nursing services. The residential hospice must provide nursing care and services by, or under the supervision of, a registered nurse (R.N.) at all times.

1. Nursing services must be directed and staffed to assure the nursing needs of patients and residents are met.

2. Patient and resident care responsibilities of nursing personnel must be specified.

3. Hospice services and HIV care services must be provided in accordance with recognized standards of practice.

4. Nursing services include the authorization of a Registered Nurse to pronounce the death of a patient or resident.

(b) Medical Social Services. Medical Social Services must be provided by a qualified social worker under the direction of a physician.

(c) Physician Services. In addition to palliation and management of terminal illness and related conditions and HIV care, physician employees of the residential hospice including the physician member(s) of the interdisciplinary group, must also meet the

(Rule 1200-08-15-.06, continued)

general medical needs of the patients and residents to the extent these needs are not met by the attending physician.

(d) Counseling Services. Counseling services must be made available to both the individual and the family. Counseling includes bereavement counseling, provided both prior to and after the patient's or resident's death, as well as dietary, therapeutic, spiritual and may include any other counseling services identified in the plan of care for the individual and family provided while the individual is a patient or resident of the residential hospice.

1. Bereavement counseling. There must be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services should reflect family needs, services to be provided, and the frequency of services.

2. Dietary counseling. Dietary counseling, when required, must be provided by a qualified individual.

3. Spiritual counseling. Spiritual counseling must include notice to patients as to the availability of clergy.

4. Additional counseling. Counseling may be provided by other members of the interdisciplinary group as well as by other qualified professionals as determined by the residential hospice.

(2) Plan of Care.

A written plan of care must be established and maintained for each individual admitted to a residential hospice, and the care provided to an individual must be in accordance with the plan.

(a) Establishment of plan. The plan must be established by the attending physician, the medical director or the physician's designee and the interdisciplinary group prior to providing care.

~~(b) Review of plan. The plan must be reviewed and updated as the patient's condition changes, but at intervals of no more than (14) days, by the attending physician, the medical director or the physician designee and the interdisciplinary group. These reviews must be documented.~~

(b) Review of plan. The plan must be reviewed and updated as the patient's condition changes, but at intervals of no more than fifteen (15) days, by the attending physician, the medical director or the physician's designee and the interdisciplinary group. These reviews must be documented.

(c) Content of plan. The plan must include an assessment of the individual's needs and identification of the HIV care services or hospice services required including the management of discomfort and symptom relief. It must state in detail the scope and frequency of services needed to meet the patient's or resident's and family's needs.

(3) Interdisciplinary Group.

The organization providing hospice services must designate an interdisciplinary group and groups composed of individuals who provide or supervise the care and services offered by the residential hospice:

(Rule 1200-08-15-.06, continued)

(a) Composition of Group. The residential hospice must have an interdisciplinary group or groups that include at least the following individuals who are employees of the residential hospice:

1. A doctor of medicine or osteopathy;

2. A registered nurse;

3. A social worker; and

4. A pastoral or other counselor.

(b) Role of Group. The interdisciplinary group is responsible for:

1. Participation in the establishment of the plan of care;

2. Provision or supervision of the quality of hospice care and services and/or HIV care services;

3. Periodic review and updating of the plan of care for each individual receiving hospice care or HIV care; and

4. Establishing and maintaining policies governing the day-to-day provision of hospice care and services and/or HIV care and services.

(c) If a residential hospice has more than one interdisciplinary group, it must designate in advance the group it chooses to execute the functions described in paragraph (b)(4) of this section.

(d) Coordinator. The residential hospice must designate a registered nurse to coordinate the implementation of the plan of care of each patient and/or resident.

(e) Volunteers. The residential hospice may use volunteers, in defined roles, under the supervision of a designated residential hospice employee.

1. Training. The residential hospice must provide appropriate orientation and training that is consistent with acceptable standards of residential hospice practice.

2. Role. Volunteers may be used in administrative or direct patient or resident care roles.

3. Recruiting and retaining. The hospice must document active and ongoing efforts to recruit and train volunteers.

4. Availability of clergy. The residential hospice must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to patients or residents who request such visits and must advise patients and/or residents of this opportunity.

(4) Continuation of Care. A residential hospice must assist in coordinating continued care should the patient or resident be transferred or discharged from the residential hospice.

(5) Drug and Treatments. Drugs and treatments shall be administered by appropriately licensed facility personnel acting within the scope of their license. Oral orders for drugs and treatments shall be given to appropriately licensed personnel acting within the scope

(Rule 1200-08-15-.06, continued)

of their licenses, immediately recorded, signed and dated, and countersigned and dated by the physician.

(6) Performance Improvement Program. The residential hospice must ensure that there is an effective facility-wide performance improvement program to evaluate resident care and performance of the organization. The performance improvement program must be ongoing and have a written plan of implementation which assures that:

(a) All organized services related to resident care, including services furnished by a contractor, are evaluated;

(b) Nosocomial infections and medication therapy are evaluated;

(c) All services performed in the facility are evaluated as to the appropriateness of diagnosis and treatment;

(d) The residential hospice must have an ongoing plan, consistent with available community and facility resources, to provide or make available services that meet the medically-related needs of its patients and/or HIV care residents;

(e) The facility must develop and implement plans for improvement to address deficiencies identified by the performance improvement program and must document the outcome of the remedial action;

(f) Performance improvement program records are not disclosable except when such disclosure is required to demonstrate compliance with this section;

(g) Good faith attempts by the Performance Improvement Program Committee to identify and correct deficiencies will not be used as a basis for sanctions.

(7) Infection Control.

(a) The residential hospice must provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. There must be an active program for the prevention, control, and investigation of infections and communicable diseases.

(b) The administrator shall assure that an infection control committee, including the medical director and members of the nursing staff and administrative staff, develops guidelines and techniques for the prevention, surveillance, control and reporting of facility infections. Duties of the committee shall include the establishment of:

1. Written infection control policies;

2. Techniques and systems for identifying, reporting, investigating and controlling infections in the facility;

3. Written procedures governing the use of aseptic techniques and procedures in the facility;

4. Written procedures concerning food handling, laundry practices, disposal of environmental and patient and/or resident wastes, traffic control and visiting rules, sources of air pollution, and routine culturing of autoclaves and sterilizers;

5. A log of incidents related to infectious and communicable diseases;

(Rule 1200-08-15-.06, continued)

6. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing, proper grooming, masking and dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of patient and/or resident equipment and supplies; and,

7. Continuing education for all facility personnel on the cause, effect, transmission, prevention, and elimination of infections.

(c) The administrator, the medical director and a registered nurse must ensure that the facility-wide performance improvement program and training programs address problems identified by the infection control program and must be responsible for the implementation of successful corrective action plans in affected problem areas.

(d) The facility shall develop policies and procedures for testing a patient's or resident's blood for the presence of the hepatitis B virus and the HIV (AIDS) virus in the event that an employee of the facility, a student studying at the facility, or other health care provider rendering services at the facility is exposed to a patient's or resident's blood or other body fluid. The testing shall be performed at no charge to the patient or resident, and the test results shall be confidential.

(e) The facility and its employees shall adopt and utilize standard or universal precautions for preventing transmission of infections, HIV, and communicable diseases.

(f) Every residential hospice shall adopt appropriate policies regarding the testing of patients and staff for human immunodeficiency virus (HIV) and any other identified causative agent of acquired immune deficiency syndrome.

(g) Precautions shall be taken to prevent the contamination of sterile supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents. Decontamination and preparation areas shall be separated.

(h) Space and facilities for housekeeping equipment and supply storage shall be provided in each service area. Storage for bulk supplies and equipment shall be located away from patient and resident care areas. The building shall be kept in good repair, clean, sanitary and safe at all times.

(i) The facility shall appoint a housekeeping supervisor who shall be responsible for:

1. Organizing and coordinating the facility's housekeeping service;

2. Acquiring and storing sufficient housekeeping supplies and equipment for facility maintenance; and,

3. Assuring the clean and sanitary condition of the facility to provide a safe hygienic environment for patients and/or residents and staff. Cleaning shall be accomplished in accordance with the infection control rules and regulations herein and facility policy.

(j) Laundry facilities located in the residential hospice shall:

1. Be equipped with an area for receiving, processing, storing and distributing clean linen;

2. Be located in an area that does not require transportation for storage of soiled or contaminated linen through food preparation, storage or dining areas;

(Rule 1200-08-15-.06, continued)

3. Provide space for storage of clean linen and for bulk storage within clean areas of the facility; and,

4. Provide carts, bags or other acceptable containers appropriately marked to identify those used for soiled linen and those used for clean linen to prevent dual utilization of the equipment and cross contamination.

(k) The facility shall name an individual who is responsible for laundry service. This individual shall be responsible for:

1. Establishing a laundry service, either within the residential hospice or by contract, that provides the facility with sufficient clean, sanitary linen at all times;

2. Knowing and enforcing infection control rules and regulations for the laundry service;

3. Assuring the collection, packaging, transportation and storage of soiled, contaminated, and clean linen is in accordance with all applicable infection control rules, regulations and procedures; and,

4. Assuring that a contract laundry service complies with all applicable infection control rules, regulations and procedures.

(8) Hospice Aide Services. Aide Services must be available and adequate in frequency to meet the needs of the patients.

(a) The hospice aide shall be assigned to a particular patient or resident by a registered nurse. Written instructions for patient or resident care shall be prepared by a registered nurse or therapist as appropriate. Duties may include the performance of simple procedures as an extension of therapy services, personal care, ambulation and exercises, reporting changes in the patient's or resident's condition and needs, and completing appropriate records.

(b) The registered nurse, or appropriate professional staff member, shall monitor and assess the hospice aide's competence in providing care, relationships and determine whether goals are being met.

(c) There shall be regularly scheduled continuing in-service programs which include on-the-job training as issues are identified.

(9) Physical therapy, occupational therapy, respiratory therapy and speech language pathology. Physical therapy services, occupational therapy services, respiratory therapy services and speech language pathology services must be available, and when provided, offered in a manner consistent with accepted standards of practice.

(10) Medical supplies. Medical supplies and appliances including drugs and biologicals, must be provided as needed for the palliation and management of the terminal illness or conditions directly attributable to the terminal diagnosis.

(a) Administration. All drugs and biologicals must be administered in accordance with accepted standards of practice, only by appropriately licensed employees of the hospice.

(b) The residential hospice must have a policy for the disposal of controlled drugs when those drugs are no longer needed by the patient.

(Rule 1200-08-15-.06, continued)

(c) Drugs and biologicals may be administered by the patient or resident or his/her family member if the patient's or resident's attending physician has approved.

(11) Medical Records.

(a) A medical record containing past and current findings in accordance with accepted professional standards shall be maintained for every residential hospice patient and/or HIV care resident. The record must be complete, promptly and accurately documented, readily accessible and systematically organized to facilitate retrieval. Each clinical record is a comprehensive compilation of information. Entries are made for all services provided. Entries are made and signed by the person providing the services. The record includes all services whether furnished directly or under arrangements made by the hospice. Each individual's record must contain:

1. The initial and subsequent assessments;

2. The plan of care;

3. Identification data;

4. Consent and authorization and election forms;

5. Pertinent medical history; and

6. Complete documentation of all services and events, including but not limited to evaluations, treatments and progress notes.

(b) All medical records, either written, electronic, graphic or otherwise acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least (10) years after which such records may be destroyed. However, in cases of patients or residents under mental disability or minority, their complete residential hospice records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the patient or resident, whichever is longer. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of the contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the residential hospice's policies and procedures, and no record may be destroyed on an individual basis.

(c) Even if the residential hospice discontinues operations, records shall be maintained as mandated by these rules and the Tennessee Medical Records Act (see T.C.A. §§ 68-11-308). If a patient or resident is transferred to another health care facility or agency, a copy of the record or an abstract shall accompany the patient or resident when the residential hospice is directly involved in the transfer.

(d) The residential hospice must have a procedure for ensuring the confidentiality of patient and resident records. Information from, or copies of, records may be released only to authorized individuals, and the facility must ensure that unauthorized individuals cannot gain access to, or alter, patient or resident records. Original medical records must be released by the facility only in accordance with federal and state laws.

(e) For purposes of this rule, the requirements for signature or countersignature by a physician or other person responsible for signing, countersigning and entry may be satisfied by the electronic entry by such person of a unique code assigned exclusively to him or her, or by entry of other unique electronic or mechanical symbols, provided

(Rule 1200-08-15-.06, continued)

that such person has adopted same as his or her signature in accordance with established protocol or rules.

(f) All entries must be legible, complete, dated and authenticated according to facility policy.

(12) Pharmaceutical Services.

(a) The residential hospice shall have pharmaceutical services that meet the needs of the residents and are in accordance with the Tennessee Board of Pharmacy statutes and regulations. The facility is responsible for developing policies and procedures that minimize drug errors.

(b) Test reagents, germicides, and disinfectants shall be stored separately from drugs, devices and related materials. External drugs and related materials must be stored separately from internal drugs, devices and related materials. All drugs, devices and related materials must be properly labeled. They shall be properly stored in medicine compartments, including cabinets on wheels, or drug rooms. Such cabinets or drug rooms shall be kept securely locked when not in use and the key must be in the possession of the supervising nurse or other authorized persons.

(c) Schedule II drugs must be stored behind two (2) separately locked doors at all times and accessible only to persons in charge of administering medication.

(d) Every residential hospice shall comply with all state and federal regulations governing Schedule II drugs.

(e) A notation shall be made in a Schedule II drug book and in the patient's or resident's nursing notes each time a Schedule II drug is given. The notation shall include the name of the patient or resident receiving the drug, name of the drug, the dosage given, the method of administration, the date and time given and the name of the physician prescribing the drug.

(f) All oral orders shall be immediately recorded, designated as such and signed by the person receiving them and countersigned by the physician within ten (10) days.

(g) All orders for drugs, devices and related materials must be in writing and signed by the practitioner or practitioners responsible for the care of the patient or resident. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they shall be:

1. Accepted only by personnel that are authorized to do so by the medical staff policies and procedures, consistent with federal and state law; and,

2. Signed or initialed by the prescribing practitioner according to residential hospice policy.

(h) Medications not specifically limited as to time or number of doses when ordered are controlled by automatic stop orders or other methods in accordance with written policies. No Schedule II drug shall be given or continued beyond seventy-two (72) hours without a written order by the physician.

(i) Medication administration records (MAR) shall be checked against the physician's orders. Each dose shall be properly recorded in the clinical record after it has been administered.

(Rule 1200-08-15-.06, continued)

(j) Preparation of doses for more than one scheduled administration time shall not be permitted.

(k) Medication shall be administered only by licensed medical or licensed nursing personnel or other licensed health professionals acting within the scope of their license.

(l) Unless the unit dose package system is used, individual prescriptions of drugs shall be kept in the original container with the original label intact showing the name of the patient or resident, the drug, the physician, the prescription number and the date dispensed.

(m) Legend drugs shall be dispensed by a licensed pharmacist.

(n) Any unused portions of prescriptions shall be turned over to the patient or resident only on a written order by the physician. A notation of drugs released to the patient or resident shall be entered into the medical record. All unused prescriptions left in a residential hospice shall be destroyed on the premises and recorded by a pharmacist. Such record shall be kept in the residential hospice.

(13) Laboratory Services.

The residential hospice must maintain or have available, either directly or through a contractual agreement, adequate laboratory services to meet the needs of the patients and/or residents. The residential hospice must ensure that all laboratory services provided to its patients and/or residents are performed in a facility licensed in accordance with the Tennessee Medical Laboratory Act (TMLA). All technical laboratory staff shall be licensed in accordance with the TMLA and shall be qualified by education, training and experience for the type of services rendered.

(14) Food and Dietetic Services.

(a) The residential hospice must designate a person, either directly or by contractual agreement, to serve as the food and dietetic services director with responsibility for the daily management of the dietary services.

(b) There must be a qualified dietitian, full time, part-time, or on a consultant basis who is responsible for the development and implementation of a nutrition care process to meet the needs of patients and/or residents for health maintenance, disease prevention and, when necessary, medical nutrition therapy to treat an illness, injury or condition.

(c) Menus must meet the needs of the patients and/or residents.

1. Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the patients and/or residents and must be prepared and served as prescribed.

2. Special diets shall be prepared and served as ordered.

3. Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the patients and/or residents.

4. A current therapeutic diet manual approved by the dietitian and medical director must be readily available to all medical, nursing, and food service personnel.

(Rule 1200-08-15-.06, continued)

(d) Education programs, including orientation, on-the-job training, inservice education, and continuing education shall be offered to dietetic services personnel on a regular basis. Programs shall include instruction in the use of equipment, personal hygiene, proper inspection, and the handling, preparing and serving of food.

(e) A minimum of three (3) meals in each twenty-four (24) hour period shall be offered. A supplemental night meal shall be offered if more than fourteen (14) hours lapse between supper and breakfast. Additional nourishments shall be provided to patients and/ or residents with special dietary needs. A minimum of three (3) days supply of food shall be on hand.

(f) Food shall be protected from dust, flies, rodents, unnecessary handling, droplet infection, overhead leakage and other sources of contamination whether in storage, while being prepared and served, and/or transported through hallways.

(g) Perishable food shall not be allowed to stand at room temperature except during necessary periods of preparation or serving. Prepared foods shall be kept hot (140°F or above) or cold (45°F or less). Appropriate equipment for temperature maintenance, such as hot and cold serving units or insulated containers, shall be used.

(h) Dishwashing machines shall be used according to manufacturer specifications.

(i) All dishes, glassware and utensils used in the preparation and serving of food and drink shall be cleaned and sanitized after each use.

(j) The cleaning and sanitizing of handwashed dishes shall be accomplished by using a three-compartment sink according to the current "U.S. Public Health Service Sanitation Manual".

(k) The kitchen shall contain sufficient refrigeration equipment and space for the storage of perishable foods.

(l) All refrigerators and freezers shall have thermometers. Refrigerators shall be kept at a temperature not to exceed 45°F. Freezers shall be kept at a temperature not to exceed 0°F.

(m) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the "U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments" and the current "U.S. Public Health Service Sanitation Manual" should be used as a guide to food sanitation.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed November 22, 2005; effective February 5, 2006.*

1200-08-15-.07 RESERVED.

1200-08-15-.08 BUILDING STANDARDS.

(1) A residential hospice shall construct, arrange, and maintain the condition of the physical plant and the overall residential hospice environment in such a manner that the safety and well-being of the patients are assured.

Rule 1200-08-15-.12, continued)

(b) When necessary to protect and preserve the rights of the patients or residents in the facility; or

(c) When contradicted by the explicit provisions of another rule of the board.

(3) Any reduction in patients' or resident's rights must be explicit, reasonable, appropriate to the justification, the least restrictive response feasible, shall be explained to the patient or resident, and must be documented in the individual patient's or resident's record by reciting the limitation's reason and scope.

(4) Patients' and/or residents' pets and other animals utilized for pet therapy programs shall be allowed in the facility. The facility shall designate in its policies and procedures those areas where animals will be excluded. The areas designated shall be determined based upon an assessment of the facility performed by medically trained personnel.

(5) Each patient or resident has a right to self-determination, which encompasses the right to make choices regarding life-sustaining treatment (including resuscitative services). This right of self-determination may be effectuated by an advance directive.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendments filed November 22, 2005; effective February 5, 2006.*

1200-08-15-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each residential hospice shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a patient or resident who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual patients or 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 patient or resident could have made while having capacity, or may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to authorize the agent to make any health care decision the patient or resident could have made while having capacity.

(3) The advance directive shall be in writing, signed by the patient or 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 patient or resident by blood, marriage, or adoption and would not be entitled to any portion of the estate of the patient or resident upon the death of the patient or resident. 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 authority of an agent becomes effective only upon a determination that the patient or resident lacks capacity, and ceases to be effective upon a determination that the patient or resident has recovered capacity.

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(Rule 1200-08-15-.13, continued)

(6) A determination that a patient or resident lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.

(7) An agent shall make a health care decision in accordance with the patient's or 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 patient's or resident's best interest. In determining the patient's or resident's best interest, the agent shall consider the patient's or resident's personal values to the extent known.

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

(9) A health care facility 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 patient's or 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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 patient or 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 patient or 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

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

1. the patient or resident has been determined by the designated physician to lack capacity, and

(Rule 1200-08-15-.13, continued)

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(c) In the case of a patient or resident who lacks capacity, the patient's or resident's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the patient or resident is receiving health care.

(d) The patient's or resident's surrogate shall be an adult who has exhibited special care and concern for the patient or resident, who is familiar with the patient's or 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 patient's or resident's spouse, unless legally separated;

2. the patient's or resident's adult child;

3. the patient's or resident's parent;

4. the patient's or resident's adult sibling;

5. any other adult relative of the patient or resident; or

6. any other adult who satisfies the requirements of 1200-08-15-.13(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 patient or resident shall be eligible to serve as the patient's or 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 known wishes of the patient or resident or in accordance with the patient's or resident's best interests;

2. The proposed surrogate's regular contact with the patient or 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 patient or 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 patient or resident lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-15-.13(16)(c) thru 1200-08-15-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the patient or resident after the designated physician either:

(Rule 1200-08-15-.13, continued)

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 patient's or 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 patient's or 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 patient's or resident's best interest. In determining the patient's or resident's best interest, the surrogate shall consider the patient's or resident's personal values to the extent known to the surrogate.

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

(l) Except as provided in 1200-08-15-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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 patient's or resident's treating health care provider.

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

1. the employee so designated is a relative of the patient or 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 patient or 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 patient's or resident's individual instructions and may not revoke the patient's or resident's advance directive absent a court order to the contrary.

(Rule 1200-08-15-.13, continued)

(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 patient or 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 patient or 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 the determination in the patient's or resident's current clinical record and communicate the determination to the patient or resident, if possible, and to any person then authorized to make health care decisions for the patient or resident.

(19) Except as provided in 1200-08-15-.13(20) thru 1200-08-15-.13(22), a health care provider or institution providing care to a patient or resident shall:

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

(b) comply with a health care decision for the patient or resident made by a person then authorized to make health care decisions for the patient or resident to the same extent as if the decision had been made by the patient or 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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated to the patient or resident or to a person then authorized to make health care decisions for the patient or 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 1200-08-15-.13(20) thru 1200-08-15-.13(22) shall:

(a) promptly so inform the patient or resident, if possible, and any person then authorized to make health care decisions for the patient or resident;

(b) provide continuing care to the patient or resident until a transfer can be effected or until the determination has been made that transfer cannot be effected;

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

(Rule 1200-08-15-.13, continued)

(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 patient or resident has the same rights as the patient or 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 patient or 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 for such identification 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 patient or 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 may be used by a physician for a patient with whom the physician 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.~~

(Rule 1200-08-15-.13, continued)

~~(b) If the patient or resident is an adult who is capable of making an informed decision, the patient's or 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 patient or resident is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient or resident be resuscitated by the person authorized to consent on the patient's or 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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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 patient or 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(Rule 1200-08-15-.13, continued)

Decisions Act, is not reasonably available, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise

(Rule 1200-08-15-.13, continued)

incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed November 22, 2005; effective February 5, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-15-.14 DISASTER PREPAREDNESS.

(1) Emergency Electrical Power.

(Rule 1200-08-15-.14, continued)

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed August 18, 1995; effective November 1, 1995. Amendment filed February 9, 1998; effective April 25, 1998. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed November 22, 2005; effective February 5, 2006.*

1200-08-15-.15 APPENDIX I

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

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

(This space intentionally left blank)

(Rule 1200-08-15-.15, continued)

A COPY OF THIS 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) (Allow Natural Death)** 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 & NUTRITION.** Oral fluids & 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:* _____

(Rule 1200-08-15-.15, continued)

~~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 Signature (Mandatory) _____ Date~~	~~Physician Phone Number~~

~~Signature of Patient, Parent of Minor, or Guardian/Health Care Representative~~ ~~Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.~~			
~~Name (print)~~	~~Signature~~	~~Relationship (write "self" if patient)~~	
~~Surrogate~~	~~Relationship~~	~~Phone Number~~	
~~Health Care Professional Preparing Form~~	~~Preparer Title~~	~~Phone Number~~	~~Date Prepared~~

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

(Rule 1200-08-15-.15, continued)

~~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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name

(Rule 1200-08-15-.15, continued)

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.	First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

(Rule 1200-08-15-.15, continued)

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(2) Advance Care Plan Form

(Rule 1200-08-15-.15, continued)

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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.
☐	☐	**Life Support / Other Artificial Support:** Continuous use of breathing machine, IV fluids, medications,

(Rule 1200-08-15-.15, continued)

Yes	No	
		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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2 Page 1 of 2

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

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-15-.15, continued)
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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
THE TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-24
STANDARDS FOR BIRTHING CENTERS

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1200-08-24-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ Adult. An individual who has capacity and is at least 18 years of age.

(3) ~~(2)~~ Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(4) ~~(3)~~ Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(5) ~~(4)~~ Birthing Center. Any institution, facility, place or building devoted exclusively or primarily to the provision of routine delivery services and postpartum care for mothers and their newborn infants.

(6) ~~(5)~~ Board. The Tennessee Board for Licensing Health Care Facilities.

(7) ~~(6)~~ Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient to make health care decisions while having the capacity to do so. A patient shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient shall have the burden of proving lack of capacity.

(8) ~~(7)~~ Cardiopulmonary Resuscitation (CPR). The administering of any means or device to restore or support cardiopulmonary functions in a patient, whether by mechanical devices, chest compression, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilators or respirations, defibrillation, the administration of drugs and/or chemical agents intended to restore cardiac and/or respiratory functions in a patient where cardiac or respiratory arrest has occurred or is believed to be imminent.

(9) ~~(8)~~ Certified Nurse Midwife (CNM). A registered nurse currently licensed as such by the Tennessee Board of Nursing and certified by the American College of Nurse-Midwives and qualified to deliver midwifery services.

(Rule 1200-08-24-.01, continued)

(10) ~~(9)~~ Certified Professional Midwife (CPM). A North American Registry of Midwives (NARM) certified midwife, who must have midwifery skills and experience evaluated and pass written and skills examinations.

(11) ~~(10)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(12) ~~(11)~~ Competent. A patient who has capacity.

(13) ~~(12)~~ Department. The Tennessee Department of Health.

(14) ~~(13)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

~~(14) Do Not Resuscitate (DNR) Order. An order entered by the patient's treating physician in the patient's medical record which states that in the event the patient 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.~~

(15) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(16) ~~(15)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(17) ~~(16)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(18) ~~(17)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(19) ~~(18)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state, or federal regulations.

(20) ~~(19)~~ Health Care. 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).

(21) ~~(20)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(22) ~~(21)~~ Health Care Decision-maker. In the case of a patient who lacks capacity, the patient's health care decision-maker is one of the following: the patient's health care agent as specified in an advance directive, the patient's court-appointed guardian or conservator with health care decision-making authority, the patient's surrogate as determined pursuant to Rule 1200-08-24-.12 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(23) ~~(22)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(Rule 1200-08-24-.01, continued)

(24) ~~(23)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(25) ~~(24)~~ Hospital. Any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with services of a physician or dentist, of one (1) or more nonrelated persons who may be suffering from deformity. injury or disease or from any other condition for which nursing, medical or surgical services would be appropriate for care, diagnosis or treatment.

(26) ~~(25)~~ Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(27) ~~(26)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(29) ~~(28)~~ Licensee. The person or body to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(30) ~~(29)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(31) ~~(30)~~ Medical Record. Medical histories, records, reports, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, x-rays, radiology interpretations, and other written electronics, or graphic data prepared, kept, made or maintained in a facility that pertains to confinement or services rendered to patients admitted or receiving care.

(32) ~~(31)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or other medical or surgical treatments to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the patient's representative expresses the goals of the patient.

(33) ~~(32)~~ Member of the Professional Medical Community. A professional employed by the birthing center and on the premises at the time of a voluntary delivery.

(34) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(35) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(36) (33) NFPA. The National Fire Protection Association.

~~(34) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to~~

(Rule 1200-08-24-.01, continued)

~~maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(37) ~~(35)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(38) ~~(36)~~ Personally Informing. A communication by any effective means from the patient directly to a health care provider.

(39) ~~(37)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

(40) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(41) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(42) ~~(38)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(43) ~~(39)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(44) ~~(40)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(45) ~~(41)~~ Routine Delivery Services. Services provided by a physician or a certified professional midwife practicing when these rules become final or a certified nurse midwife related to the normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health, promoting a family-centered approach to care and viewing pregnancy and delivery as a normal physiological process requiring limited technological and pharmacological support.

(Rule 1200-08-24-.01, continued)

(46) ~~(42)~~ Shall or Must. Compliance is mandatory.

(47) ~~(43)~~ Stabilize. To provide such medical treatment of the emergency medical condition as may be necessary to assure, within reasonable medical probability, that the condition will not materially deteriorate due to the transfer as determined by a physician or other qualified medical personnel when a physician is not readily available.

(48) ~~(44)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(49) ~~(45)~~ Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board or equivalent body.

(50) ~~(46)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(51) ~~(47)~~ Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(52) ~~(48)~~ Transfer. The movement of a patient to a hospital at the direction of a physician or other qualified medical personnel when a physician is not readily available but does not include such movement of a patient who leaves the facility against medical advice.

(53) ~~(49)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

~~(50) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

(54) ~~(51)~~ Voluntary Delivery. The action of a mother in leaving an unharmed infant aged seventy-two (72) hours or younger on the premises of a birthing center with any birthing center employee or member of the professional medical community without expressing any intention to return for such infant, and failing to visit or seek contact with such infant for a period of thirty (30) days thereafter.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-255 and 68-11-1802.* ***Administrative History:*** *Original rule filed March 31, 1998; effective June 12, 1998. Amendment filed September 17, 2002; effective December 1, 2002. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed January 3, 2006; effective March 19, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-24-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate, or maintain in the State of Tennessee any birthing center without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure. Licenses are not transferable or assignable and

(Rule 1200-08-24-.10, continued)

an opportunity to inspect the file before entering into any monetary agreement with the facility.

(a) Local fire safety inspections.

(b) Local building code inspections, if any.

(c) Fire marshal reports.

(d) Department licensure and fire safety inspections and surveys.

(e) Department quality assurance surveys, including follow-up visits, and certification inspections, if any.

(f) Federal Health Care Financing Administration surveys and inspections, if any.

(g) Orders of the Commissioner or Board, if any.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, and 68-11-213.* ***Administrative History:*** *Original rule filed March 31, 1998; effective June 12, 1998. Amendment filed April 11, 2003; effective June 25, 2003. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-24-.11 PATIENT RIGHTS.

(1) Each patient has at least the following rights:

(a) To privacy in treatment and personal care;

(b) To be free from mental and physical abuse. Should this right be violated, the facility must notify the department and the Tennessee Department of Human Services, Adult Protective Services;

(c) To refuse treatment. The patient must be informed of the consequences of that decision, the refusal and its reason must be reported to the physician and documented in the medical record;

(d) To refuse experimental treatment and drugs. The patient's or health care decision maker's written consent for participation in research must be obtained and retained in his or her medical record; and

(e) To have their records kept confidential and private. Written consent by the patient must be obtained prior to release of information except to persons authorized by law. If the patient lacks capacity, written consent is required from the patient's health care decision maker. The birthing center must have policies to govern access and duplication of the patient's record.

(2) Each patient has a right to self-determination, which encompasses the right to make choices regarding life-sustaining treatment, including resuscitative services. This right of self-determination may be effectuated by an advance directive.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed March 31, 1998; effective June 12, 1998. Amendment filed January 3, 2006; effective March 19, 2006.*

1200-08-24-.12 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each birthing center shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a patient who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual patients. 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 patient could have made while having capacity, or may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to authorize the agent to make any health care decision the patient could have made while having capacity.

(3) The advance directive shall be in writing, signed by the patient, 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 patient by blood, marriage, or adoption and would not be entitled to any portion of the estate of the patient upon the death of the patient. 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 authority of an agent becomes effective only upon a determination that the patient lacks capacity, and ceases to be effective upon a determination that the patient has recovered capacity.

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a patient lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.

(7) An agent shall make a health care decision in accordance with the patient'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 patient's best interest. In determining the patient's best interest, the agent shall consider the patient's personal values to the extent known.

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

(9) A health care facility 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 patient'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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, shall be given effect and interpreted in

(Rule 1200-08-24-.12, continued)

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 patient 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 patient 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

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

1. the patient has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(c) In the case of a patient who lacks capacity, the patient's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the patient is receiving health care.

(d) The patient's surrogate shall be an adult who has exhibited special care and concern for the patient, who is familiar with the patient'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 patient's spouse, unless legally separated;

2. the patient's adult child;

3. the patient's parent;

4. the patient's adult sibling;

5. any other adult relative of the patient; or

6. any other adult who satisfies the requirements of 1200-08-24-.12(16)(d).

(Rule 1200-08-24-.12, continued)

(f) No person who is the subject of a protective order or other court order that directs that person to avoid contact with the patient shall be eligible to serve as the patient'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 known wishes of the patient or in accordance with the patient's best interests;

2. The proposed surrogate's regular contact with the patient 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 patient 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 patient lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-24-.12(16)(c) thru 1200-08-24-.12(16)(g) is reasonably available, the designated physician may make health care decisions for the patient after the designated 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 patient'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 patient'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 patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal values to the extent known to the surrogate.

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

(l) Except as provided in 1200-08-24-.12(16)(m):

(Rule 1200-08-24-.12, continued)

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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 patient's treating health care provider.

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

1. the employee so designated is a relative of the patient 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 patient to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.

(17) Guardian.

(a) A guardian shall comply with the patient's individual instructions and may not revoke the patient'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 patient 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 patient 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 the determination in the patient's current clinical record and communicate the determination to the patient, if possible, and to any person then authorized to make health care decisions for the patient.

(19) Except as provided in 1200-08-24-.12(20) thru 1200-08-24-.12(22), a health care provider or institution providing care to a patient shall:

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

(b) comply with a health care decision for the patient made by a person then authorized to make health care decisions for the patient to the same extent as if the decision had been made by the patient 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 a policy of the institution which is based on reasons of conscience, and

(Rule 1200-08-24-.12, continued)

(b) the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient.

(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 1200-08-24-.12(20) thru 1200-08-24-.12(22) shall:

(a) promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient;

(b) provide continuing care to the patient until a transfer can be effected or until the determination has been made that transfer cannot be effected;

(c) unless the patient or person then authorized to make health care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health care provider or institution that is willing to comply with the instruction or decision; 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 patient has the same rights as the patient 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 patient, 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 for such identification 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.

(Rule 1200-08-24-.12, continued)

(29) The withholding or withdrawal of medical care from a patient 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 may be used by a physician for a patient with whom the physician 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 patient is an adult who is capable of making an informed decision, the patient'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 patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient'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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual from one health care facility to another health care facility.~~

(Rule 1200-08-24-.12, continued)

~~(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 patient 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(Rule 1200-08-24-.12, continued)

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest

(Rule 1200-08-24-.12, continued)

in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815 .* ***Administrative History:*** *Original rule filed March 31, 1998; effective June 12, 1998. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed January 3, 2006; effective March 19, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-24-.13 DISASTER PREPAREDNESS.

(1) Physical Facility and Community Emergency Plans.

(a) Every birthing center shall have a current internal emergency plan, or plans, that provides for fires, bomb threats, severe weather, utility service failures, plus any local high risk situations such as floods, earthquakes, toxic fumes and chemical spills.

(b) The plan(s) must include provisions for the relocation of persons within the building and/or either partial or full building evacuation. Plans that provide for the relocation of patients to other healthcare facilities must have written agreements for emergency transfers. Their agreements may be mutual, i.e., providing for transfer either way.

(c) Copies of the plan(s), either complete or outlines, shall be available to all staff. Provisions that have security implications may be omitted from the outline versions. Familiarization information shall be included in employee orientation sessions and more detailed instructions must be included in continuing education programs. Records of orientation and education programs must be maintained for at least three (3) years.

(d) Drills of the fire safety plan shall be conducted at least once a year on each major work shift, for a minimum of three times a year for each facility. A combined drill of the other internal emergency plans shall be conducted at least once a year. The risk focus may vary by drill. Both types of drills are for the purposes of educating staff, resource determination, testing personal safety provisions and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

(e) As soon as possible, real situations that result in a response by local authorities must be documented. This includes a critique of the activation of the plan. Actual documented situations that provided educational and training value may be substituted for a drill.

(2) Emergency Planning with Local Government Authorities.

(a) All birthing centers shall establish and maintain communications with the local office of the Tennessee Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The facility shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

(Rule 1200-08-24-.13, continued)

(b) A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed March 31, 1998; effective June 12, 1998.*

1200-08-24-.14 APPENDIX I

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

~~(This space intentionally left blank)~~

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

(This space intentionally left blank)

(Rule 1200-08-24-.14, continued)

A COPY OF THIS 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) (Allow Natural Death) 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 & NUTRITION. Oral fluids & 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:	The Basis for These Orders Is: (Must be completed)
	☐ Patient/Resident ☐ Health care agent ☐ Court appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____ (Specify)	☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician Name (Print)	Physician Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-24-.14, continued)

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

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-24-.14, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-24-.14, continued)

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-24-.14, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes ☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes ☐ No	**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.
☐ Yes ☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes ☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is needed most of the time and activities are limited due to the feeling of suffocation.

(Rule 1200-08-24-.14, continued)

Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-24-.14, continued)

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

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-24-.14, continued)

- Provide a copy to the person(s) you named as your health care agent

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805. ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-25
STANDARDS FOR ASSISTED-CARE LIVING FACILITIES

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1200-08-25-.01 PURPOSE.

(1) The purpose of assisted-care living services is to:

(a) Promote the availability of appropriate residential facilities for the elderly and adults with disabilities in the least restrictive and most homelike environment;

(b) Provide assisted-care living services to residents in facilities by meeting each individual's medical and other needs safely and effectively; and

(c) Enhance the individual's ability to age in place while promoting personal individuality, respect, independence, and privacy.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1998; effective February 8, 1999. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed January 24, 2006; effective April 9, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-25-.02 DEFINITIONS.

(1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

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

~~(2)~~ ~~"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.~~

(3) "Administering Medication" means the direct application of a single dose of medication to

(Rule 1200-08-25-.02, continued)

the body of a resident by injection, inhalation, ingestion, topical application or by any other means and the placement of a single dose of medication into a container.

(4) ~~(3)~~ "Administrator" means a natural person designated by the licensee to have the authority and responsibility to manage the ACLF and who is appropriately certified as an assisted-care living facility administrator or is currently licensed in Tennessee as a nursing home administrator as required by T.C.A. §§ 63-16-101, et seq.

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

(6) ~~(5)~~ "Ambulatory" means the resident's ability to bear weight, pivot and safely walk with the use of a cane, walker, or other mechanical supportive device with or without the minimal assistance of another person. The resident must be physically and mentally capable of self-preservation by evacuating in response to an emergency. A resident who requires a wheelchair must be capable of transferring to and propelling the wheelchair independently.

(7) ~~(6)~~ "Assisted-care living facility (ACLF)" means a building, establishment, complex or distinct part thereof that accepts primarily aged persons for domiciliary care and services.

(8) "Assistance with Self-Administration of Medication" means assistance in reading labels, opening medication containers or packaging, reminding residents of their medication, or observing the resident while taking medication in accordance with the plan of care.

(9) ~~(7)~~ "Assisted-care living facility resident" or "resident" means primarily an aged person who requires domiciliary care, and who upon admission to the facility, if not ambulatory, is capable of self-transfer from the bed to a wheelchair or similar device and is capable of propelling such wheelchair or similar device independently. Such a resident may require one or more of the following services: room and board, assistance with non-medical activities of daily living, administration of typically self-administered medications, and medical services subject to the limitations of these rules.

(10) ~~(8)~~ "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 ACLF can adequately address those problems, meet those needs, and secure information for the use in the development of the individual care plan.

(11) ~~(9)~~ "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) ~~(10)~~ "Continuous nursing care" means round-the-clock observation, assessment, monitoring, supervision, or provision of nursing services that can only be performed by a licensed nurse.

(13) ~~(11)~~ "Distinct part" means a unit or part thereof that is organized and operated to give a distinct type of care within the larger organization which renders other types or levels of care. "Distinct" denotes both organizational and physical separateness. A distinct part of an ACLF must be physically identifiable and be operated distinguishably from the rest of the institution. It must consist of all the beds within that unit such as a separate building, floor, wing or ward. Several rooms at one end of a hall or one side of a corridor is acceptable as a distinct part of an ACLF.

(Rule 1200-08-25-.02, continued)

~~(12) "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) "Do-Not-Resuscitate Order (DNR)" means a written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

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

(16) ~~(14)~~ "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).

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

(18) ~~(16)~~ "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 T.C.A. § 68-11-1806, or the individual's designated physician pursuant to T.C.A. § 68-11-1802(a)(4).

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

(20) ~~(18)~~ "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, speech-language pathologist, and emergency service personnel.

(21) ~~(19)~~ "Licensee" means the person, association, partnership, corporation, company or public agency to which the license is issued.

(22) ~~(20)~~ "Life threatening or serious injury" means an injury requiring the resident to undergo significant diagnostic or treatment measures.

(23) ~~(21)~~ "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 ACLF, regardless of whether such services are rendered by ACLF staff or by arrangement with an outside source.

(24) (22) "Medically inappropriate treatment" means resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the resident or other medical or surgical treatments that cannot be expected to achieve the expressed goals of the informed resident.

(Rule 1200-08-25-.02, continued)

(25) "Misappropriation of Patient/Resident Property" means the deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(26) "Neglect" means the failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

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

~~(24) "Patient abuse" means patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

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

(29) ~~(26)~~ "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.

(30) "Physician Assistant" means a person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(31) "Physician Orders for Scope of Treatment" or "POST' means written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(Rule 1200-08-25-.02, continued)

(32) ~~(27)~~ "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. Title 34, Chapter 6, Part 2.

(33) ~~(28)~~ "Primarily aged" means that a minimum of fifty-one percent (51%) of the population of the facility is at least sixty- two (62) years of age.

(34) ~~(29)~~ "Resident sleeping unit" means a single unit providing sleeping facilities for one or more persons. Resident sleeping units can also include permanent provisions for living, eating and sanitation.

(35) ~~(30)~~ "Responsible attendant" means the individual person designated by the licensee to provide personal services to the residents.

(36) ~~(31)~~ "Secured unit" means a distinct part of an ACLF where the residents are intentionally denied egress by any means.

~~(32) "Self-administration of medication" means assistance in reading labels, opening dosage packaging, reminding residents of their medication, or observing the resident while taking medication in accordance with the plan of care.~~

(37) "Self-Administration of Medication" means the ability to administer medicine to oneself without assistance other than receiving help with reading labels or with physically opening the container or packaging, being reminded of one's medication, or being observed while taking medication in accordance with the plan of care.

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

(39) ~~(34)~~ "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) ~~(35)~~ "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.

~~(36) "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.~~

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, and 68-11-211.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Amendment filed February 23, 2007; effective May 9, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-25-.03 LICENSING REQUIREMENTS.

(1) An applicant for an ACLF license shall submit the following to the office of the Board for Licensing Health Care Facilities:

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

(Rule 1200-08-25-.05, continued)

T.C.A. § 68-11-201(4)(B) $0-$1
(Provision of Room and Board and
Non-Medical Living Assistance Services)

T.C.A. § 68-11-201(4)(C) $0-$1
(Provision of Medical and other
Professional Services;
Medicare Services;
Oversight of Medical Services;
Plan of Care & Assessment;
Personal and Medical Records; and,
Fire Safety)

T.C.A. § 68-11-213(i)(2) $0-$3000
(Admission or Retention of Inappropriately
Placed Resident.)
Each resident shall constitute a separate violation.)

T.C.A. § Section 68-11-213(i)(1) $0-$5000
(Operating ACLF without Required License.
Each day of operation shall constitute a separate violation.)

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.

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

(7) A licensee may appeal any disciplinary action taken against it in accordance with the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-101, *et seq.*

(8) 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. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-213 (i), and 68-11-257.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1998; effective February 8, 1999. Amendment filed February 15, 2000; effective April 30, 2000. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed May 24, 2004; effective August 7, 2004. Amendment filed April 20, 2006; effective July 4, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-25-.06 ADMINISTRATION.

(1) Each ACLF shall meet the following staffing and procedural standards:

(Rule 1200-08-25-.06, continued)

(a) Staffing Requirements:

1. The licensee must designate in writing a capable and responsible person to act on administrative matters and to exercise all the powers and responsibilities of the licensee as set forth in this chapter in the absence of the licensee.

2. If the licensee is a natural person, the licensee shall be at least eighteen (18) years of age, of reputable and responsible character, able to comply with these rules, and must maintain financial resources and income sufficient to provide for the needs of the residents, including their room, board, and personal services.

3. An ACLF shall have an identified responsible attendant who is alert and awake at all times and a sufficient number of employees to meet the residents' needs, including medical services as prescribed. The responsible attendant and direct care staff must be at least eighteen (18) years of age and capable of complying with statutes and rules governing ACLFs.

4. An ACLF shall have a licensed nurse available as needed.

5. An ACLF shall employ a qualified dietitian, full time, part-time, or on a consultant basis.

6. An ACLF may not employ an individual listed on the Abuse Registry maintained by the Department of Health.

(b) Policies and Procedures:

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

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

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

(i) Residents of the facility are exempt from the smoking prohibition that otherwise applies to the ACLF.

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

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

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

(Rule 1200-08-25-.06, continued)

(d) An ACLF shall allow pets in the ACLF only when they are not a nuisance and do not pose a health hazard. Plans for pet management must be approved by the Department.

(e) No person associated with the licensee or ACLF shall act as a court-appointed guardian, trustee, or conservator for any resident of the ACLF or any of such resident's property or funds, except as provided by rule 1200-08-25-.14(1)(i).

(f) An ACLF shall not retaliate against or, in any manner, discriminate against any person because of a complaint made in good faith and without malice to the Board, the Department, the Adult Protective Services, or the Comptroller of the State Treasury. An ACLF shall neither retaliate nor discriminate, because any person lawfully provides information to these authorities, cooperates with them, or is subpoenaed to testify at a hearing involving them.

(2) In the event a resident dies at an ACLF, a registered nurse may make the actual determination and pronouncement of death under the following circumstances.

(a) Death was anticipated and the attending physician has agreed in writing to sign the death certificate. Such agreement by the attending physician must be present and with the deceased at the place of death;

(b) The nurse is licensed by the Tennessee Board of Nursing; and

(c) The nurse is employed by the ACLF in which the deceased resided.

(3) In the event that resident, receiving services of a Medicare certified hospice program licensed by the state, dies at an ACLF, a registered nurse may make the actual determination and pronouncement of death under the following circumstances:

(a) The deceased was suffering from a terminal illness;

(b) Death was anticipated and the attending physician has agreed in writing to sign the death certificate. Such agreement by the attending physician must be present and with the deceased at the place of death;

(c) The nurse is licensed by the Tennessee Board of Nursing; and

(d) The nurse is employed by the hospice program from which the deceased had been receiving hospice services.

(4) An ACLF shall post the following at the main public entrance:

(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. (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;

(Rule 1200-08-25-.06, continued)

(c) A statement regarding whether it has liability insurance, the identity of their 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; and

(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 ACLF 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.

(5) Infection Control

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

(b) An ACLF 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;~~

1. The offer of influenza vaccination to all staff and independent practitioners or acceptance of documented evidence of vaccination from another vaccine source or facility. The ACLF will encourage all staff and independent practitioners to obtain an influenza vaccination.

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:~~

3. Education of all employees 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 ACLF 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:

(Rule 1200-08-25-.06, continued)

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 non-antimicrobial soap and water or 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 ACLF shall develop and implement a system for measuring improvements in adherence to the hand hygiene program and influenza vaccination program.

(6) An ACLF 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 ACLF on the grounds of race, color, national origin, or handicap. An ACLF 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, 39-17-1805, 68-3-511, 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-254, 68-11-268, and 71-6-121.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed January 7, 2000; effective March 22, 2000. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-25-.07 SERVICES PROVIDED.

(1) An ACLF may provide medical services as follows:

(a) Administer medications to residents that are typically self-administered as subject to limitations described within these rules and regulations.

(b) All other medical services prescribed by the physician that could be provided to a private citizen in the citizen's home, including, but not limited to:

1. Part-time or intermittent nursing care;

2. Various therapies;

3. Podiatry care;

4. Medical social services;

(Rule 1200-08-25-.07, continued)

5. Medical supplies;

6. Durable medical equipment; and

7. Hospice services.

~~(c) The administration of self-administered medications excluding intravenous injections that may only be administered to:~~

(c) Intravenous medications may only be administered to:

1. Existing residents who receive them on an intermittent basis; and

2. Residents receiving hospice care.

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

(a) Appropriately licensed or qualified staff of an ACLF;

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

(c) A licensed home care organization;

(d) Another appropriately licensed entity; or

(e) Appropriately licensed staff of a nursing home.

(3) Oversight of medical services in an ACLF shall be consistent with oversight provided in private residential settings as defined through rules and regulations promulgated by the applicable licensing boards and shall ensure quality of care to residents.

(4) Medicare reimbursable services shall be provided to an ACLF resident by a certified Medicare provider.

(5) Resident medication. An ACLF shall:

(a) Ensure that medication shall be self-administered in accordance with the resident's plan of care;

(b) 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

(c) Store all medications so that no resident can obtain another resident's medication.

~~(6) An ACLF 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.~~

(Rule 1200-08-25-.07, continued)

~~(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 ACLF in the presence of another licensed or certified professional.~~

(6) An ACLF shall dispose of medications as follows:

(a) Upon discharge of a resident, unused prescription medication shall be released to the resident, the resident's family member, or the resident's legal representative, unless specifically prohibited by the attending physician.

(b) Upon death of a resident, unused prescription medication must be destroyed in the manner outlined, and by the individuals designated, in the facility's medication disposal policy, unless otherwise requested by the resident's family member or the resident's legal representative and accompanied by a written order by a physician. The ACLF's medication disposal policy shall be written in accordance with current FDA or current DEA medication disposal guidelines.

(c) The ACLF shall properly dispose of prescription medication administered by the facility in accordance with the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines.

(d) The ACLF may dispose of prescription medication that is self-administered by the resident according to the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines, or the facility may provide information to the resident's family member or the resident's legal representative regarding the proper method to dispose of the medication.

(e) If the resident is a hospice patient, hospice shall be responsible for disposing of the prescription medication upon the death of the resident.

(f) The ACLF's medication disposal policy shall be performed by one (1) licensed health care professional and either the facility's administrator, a second licensed health care professional, or a medication aide certified.

(g) The ACLF's medication disposal policy shall also address the disposal of scheduled drugs, non-scheduled drugs, and devices that are misbranded, expired, deteriorated, not kept under proper conditions, and kept in containers with illegible or missing labels.

(7) An ACLF shall provide personal services as follows:

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

1. Protective care;
2. Safety when in the ACLF;
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) Laundry services. An ACLF shall:

(Rule 1200-08-25-.07, continued)

1. Provide arrangements for laundry of ACLF 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.

(c) Dietary services.

1. An ACLF shall have organized dietary services that are directed and staffed by adequate qualified personnel. An ACLF may contract with an outside food management company if the company has a dietitian who serves the ACLF 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 ACLF for recommendations on dietetic policies affecting resident treatment.

2. An ACLF shall have an employee who:

   (i) Serves as director of the food and dietetic service;

   (ii) Is responsible for the daily management of the dietary services and staff training; and

   (iii) Is qualified by experience or training.

3. An ACLF shall ensure that menus meet the needs of the residents as follows:

   (i) The practitioner or practitioners, as qualified within the scope of practice, responsible for the care of the residents shall prescribe therapeutic diets as necessary.

   (ii) An ACLF shall meet nutritional needs, in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the residents.

   (iii) An ACLF shall have a current therapeutic diet manual approved by the dietitian readily available to all ACLF personnel.

   (iv) Menus shall be planned one week in advance.

4. An ACLF shall:

   (i) Provide at least three (3) meals constituting an acceptable and/or prescribed diet per day. There shall be no more than fourteen (14) hours between the evening and morning meals. 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. 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.

   (ii) Provide sufficient food provision capabilities and dining space.

(Rule 1200-08-25-.07, continued)

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

(iv) Provide appropriate, properly-repaired equipment and utensils for cooking and serving food in sufficient quantity to serve all residents.

5. An ACLF shall maintain a clean and sanitary kitchen.

6. Employees shall wash and sanitize equipment, utensils and dishes after each use.

(d) An ACLF shall provide a suitable and comfortable furnished area for activities and family visits. Furnishings shall include a calendar and a functioning television set, radio, and clock.

(e) An ACLF shall provide current newspapers, magazines or other reading materials.

(f) An ACLF shall have a telephone accessible to all residents to make and receive personal telephone calls twenty-four (24) hours per day.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-261.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1999; effective February 8, 1999. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed February 18, 2003; effective May 4, 2003. Repeal and new rule filed January 24, 2006; effective April 9, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-25-.08 ADMISSIONS, DISCHARGES, AND TRANSFERS.

(1) An ACLF shall not admit or permit the continued stay of any ACLF resident who has any of the following conditions:

(a) Requires treatment for stage III or stage IV decubitus ulcers or with exfoliative dermatitis;

(b) Requires continuous nursing care;

(c) Has an active, infectious and reportable disease in a communicable state that requires contact isolation;

(d) Exhibits verbal or physical aggressive behavior which poses an imminent physical threat to self or others, based on behavior, not diagnosis;

(e) Requires physical or chemical restraints, not including psychotropic medications for a manageable mental disorder or condition; or

(f) Has needs that cannot be safely and effectively met in the ACLF.

(2) An ACLF 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, ACLF administrator, or the resident's treating physician determine that the ACLF cannot safely and effectively meet the resident's needs, including medical services.

(a) The Board may require that an ACLF 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 ACLF.

(Rule 1200-08-25-.08, continued)

(3) Except for the limitations set forth in (4)(a) and (4)(b) of this rule, an ACLF may admit and permit the continued stay of an individual meeting the level of care requirement for nursing facility services, if:

(a) The resident's treating physician certifies in writing that the resident's needs, including medical services, can be safely and effectively met by care provided in the ACLF; and

(b) The ACLF can provide assurances that the resident can be timely evacuated in case of fire or emergency.

(4) An ACLF shall not admit, but may permit the continued stay of residents who require:

(a) The following treatments on an intermittent basis of up to three (3) twenty-one (21) day periods. The resident's treating physician must certify that treatment can be safely and effectively provided by the ACLF for the last two (2) twenty-one (21) day periods.

1. Nasopharyngeal or tracheotomy aspiration;

2. Nasogastric feedings;

3. Gastrostomy feedings; or

4. Intravenous therapy or intravenous feedings.

(b) The treatments described in parts (1)-(4) above can be provided on an on-going basis if:

1. The resident is receiving hospice services;

2. The resident does not qualify for nursing facility level care and the board grants a waiver; or

3. The resident is able to care for the specified conditions without assistance of facility personnel or other appropriately licensed entity. Such a resident may be admitted or permitted to continue as a resident of the ACLF.

(5) An ACLF resident qualifying for hospice care shall be able to receive hospice care services and continue as a resident if the resident's treating physician certifies that such care can be appropriately provided in the ACLF.

(a) In the event that the resident is able to receive hospice services in an ACLF, the resident's hospice provider and the ACLF shall be jointly responsible for a plan of care that is prepared pursuant to current hospice guidelines promulgated by the Centers for Medicaid and Medicare and ensures both the safety and well-being of the resident's living environment and provision of the resident's health care needs.

(b) The hospice provider shall be available to assess, plan, monitor, direct and evaluate the resident's palliative care with the resident's treating physician and in cooperation with the ACLF.

(6) An ACLF shall:

(a) Be able to identify at the time of admission and during continued stay those residents whose needs for services are consistent with these rules and regulations, and those residents who should be transferred to a higher level of care;

(Rule 1200-08-25-.08, continued)

(b) Have a written admission agreement that includes a procedure for handling the transfer or discharge of residents and that does not violate the residents' rights under the law or these rules;

(c) Have an accurate written statement regarding fees and services which will be provided residents upon admission;

(d) Give a thirty (30) day notice to all residents before making any changes in fee schedules;

(e) Ensure that residents see a physician for acute illness or injury and are transferred in accordance with any physician's orders;

(f) Provide to each resident at the time of admission a copy of the resident's rights for the resident's review and signature;

(g) Have written policies and procedures to assist residents in the proper development, filing, modification and rescission of an advance directive, a living will, a do-not-resuscitate order, and the appointment of a durable power of attorney for health care;

(h) Prior to the admission of a resident or prior to the execution of a contract for the care of a resident (whichever occurs first), each ACLF shall disclose in writing to the resident or to the resident's legal representative, whether the ACLF has liability insurance and the identity of the primary insurance carrier. If the ACLF is self-insured, its statement shall reflect that fact and indicate the corporate entity responsible for payment of any claims;

(i) 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; and

(j) 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 offer of the vaccine. The facility shall provide or arrange the pneumococcal vaccination of residents who have not received this immunization prior to or on admission unless the resident refuses offer of the vaccine.

(k) Prior to the admission of a resident or prior to the execution of a contract for the care of a resident (whichever occurs first), each ACLF shall disclose in writing to the resident or to the resident's legal representative a copy of the medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines.

(7) An ACLF shall have documented plans and procedures to show evacuation of all residents.

(Rule 1200-08-25-.08, continued)

(8) An ACLF may not retain a resident who cannot evacuate within thirteen (13) minutes unless the ACLF complies with Chapter 19 of the 2006 edition of the NFPA Life Safety Code, and the Institutional Unrestrained Occupancy of the 2006 edition of the International Building Code.

(9) An ACLF utilizing secured units shall provide survey staff with twelve (12) months of the following performance information specific to the secured unit and its residents at its annual survey:

(a) Documentation that an interdisciplinary team consisting of at least a physician, a social worker, a registered nurse, and a family member (or patient care advocate) has evaluated each secured resident prior to admittance to the unit;

(b) Ongoing and up-to-date documentation that each resident's interdisciplinary team has performed a quarterly review as to the appropriateness of placement in the secured unit;

(c) A current listing of the number of deaths and hospitalizations, with diagnoses, that have occurred on the unit;

(d) A current listing of all unusual incidents and/or complications on the unit;

(e) An up-to-date staffing pattern and staff ratios for the unit that is recorded on a daily basis. The staffing pattern must ensure that there is a minimum of one (1) attendant, awake, on duty, and physically located on the unit twenty-four (24) hours per day, seven (7) days per week, at all times;

(f) A formulated calendar of daily group activities scheduled, including a resident attendance record for the previous three (3) months;

(g) An up-to-date listing of any incidences of decubitus and/or nosocomial infections, including resident identifiers; and

(h) Documentation showing that 100% of the staff working on the unit receives annual in-service training which shall include, but not be limited to, the following subject areas:

1. Basic facts about the causes, progression and management of Alzheimer's disease and related disorders;

2. Dealing with dysfunctional behavior and catastrophic reactions in the residents;

3. Identifying and alleviating safety risks to the resident;

4. Providing assistance in the activities of daily living for the resident; and

5. Communicating with families and other persons interested in the resident.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-201(5), 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-263, and 68-11-266.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed January 7, 2000; effective March 22, 2000. Amendment filed February 18, 2003; effective May 4, 2003. Repeal and new rule filed January 24, 2006; effective April 9, 2006. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-25-.09 BUILDING STANDARDS.

(Rule 1200-08-25-.14, continued)

(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 ACLF. 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. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-25-.15 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this rule, each ACLF 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 ACLF 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.

(Rule 1200-08-25-.15, continued)

(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 ACLF 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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 ACLF shall identify his or her surrogate.

(Rule 1200-08-25-.15, continued)

(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 1200-08-25-.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 1200-08-25-.15(16)(c) thru 1200-08-25-.15(16)(g) is reasonably available, the designated physician may make health care decisions for the resident after the designated 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.

(Rule 1200-08-25-.15, continued)

(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 1200-08-25-.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

(Rule 1200-08-25-.15, continued)

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 1200-08-25-.15(20) thru 1200-08-25-.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 the 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 1200-08-25-.15(20) thru 1200-08-25-.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.

(Rule 1200-08-25-.15, continued)

(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 Decision 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.~~

(Rule 1200-08-25-.15, continued)

~~(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 or by the department of mental health 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 DNR 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

(Rule 1200-08-25-.15, continued)

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

   (i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

   (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

   (i) With the informed consent of the patient;

   (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

   (iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, qualified emergency

(Rule 1200-08-25-.15, continued)

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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§ 68-11-209, 68-11-224 and 68-11-1801 et seq.* ***Administrative History:*** *Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-25-.16 DISASTER PREPAREDNESS.

(1) An ACLF 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

(Rule 1200-08-25-.16, continued)

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 ACLF 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.

(Rule 1200-08-25-.16, continued)

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

(3) An ACLF 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) ACLFs which elect to have an emergency generator shall ensure that the generator is designed to meet the ACLF's HVAC and essential needs and 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 ACLF shall maintain a monthly log and have trained staff familiar with the generator's operation.

Authority: *T.C.A. §§ 68-11-202 and 68-11-209.* ***Administrative History:*** *Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-25-.17 APPENDIX I.

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

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

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(Rule 1200-08-25-.17, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Physician Orders for Scope of Treatment (POST)	Patient's Last Name
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.	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) (Allow Natural Death) 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 & NUTRITION.** Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-25-.17, continued)

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

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-25-.17, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-25-.17, continued)

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-25-.17, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that

(Rule 1200-08-25-.17, continued)
medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-25-.17, continued)

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

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-25-.17, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
THE TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-26
STANDARDS FOR HOMECARE ORGANIZATIONS
PROVIDING HOME HEALTH SERVICES

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1200-08-26-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ Administrator. A person who:

(a) Is a licensed physician with at least one (1) year supervisory or administrative experience in home health care, hospice care or related health programs; or

(b) Is a registered nurse with at least one (1) year supervisory or administrative experience in home health care, hospice care or related health programs; or

(c) Has training and experience in health service administration and at least one (1) year of supervisory or administrative experience in home health care, hospice care or related health programs.

(3) ~~(2)~~ Adult. An individual who has capacity and is at least 18 years of age.

(4) ~~(3)~~ Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) ~~(4)~~ Agency. A Home Care Organization providing home health services.

(6) ~~(5)~~ Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(7) ~~(6)~~ Board. The Tennessee Board for Licensing Health Care Facilities.

(8) ~~(7)~~ Branch Office. A location or site from which a home care organization provides home health services within a portion of the total geographic area served by the licensed organization. The branch office is part of the home care organization providing home health services and is located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch independently to meet the requirements for licensing as a home care organization providing home health

(Rule 1200-08-26-.01, continued)

services. At all times a branch office must operate solely under the name of the licensed organization.

(9) ~~(8)~~ Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient to make health care decisions while having the capacity to do so. A patient shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient shall have the burden of proving lack of capacity.

(10) ~~(9)~~ Cardiopulmonary Resuscitation (CPR). The administering of any means or device to support cardiopulmonary functions in a patient, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilations or respirations, defibrillation, the administration of drugs and/or chemical agents intended to restore cardiac and/or respiratory functions in a patient where cardiac or respiratory arrest has occurred or is believed to be imminent.

(11) ~~(10)~~ Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.

(12) ~~(11)~~ Clinical Note. A written and dated notation containing a patient assessment, responses to medications, treatments, services, any changes in condition and signed by a health team member who made contact with the patient.

(13) ~~(12)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(14) ~~(13)~~ Competent. A patient who has capacity.

(15) ~~(14)~~ Department. The Tennessee Department of Health.

(16) ~~(15)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

~~(16) Do-Not-Resuscitate (DNR) Order. An order entered by the patient's treating physician in the patient's medical record which states that in the event the patient 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.~~

(17) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(18) ~~(17)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(19) ~~(18)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(20) ~~(19)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(Rule 1200-08-26-.01, continued)

(21) ~~(20)~~ Hazardous Waste. Materials whose handling, use, storage and disposal are governed by local, state or federal regulations.

(22) ~~(21)~~ Health Care. 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).

(23) ~~(22)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(24) ~~(23)~~ Health Care Decision-maker. In the case of a patient who lacks capacity, the patient's health care decision-maker is one of the following: the patient's health care agent as specified in an advance directive, the patient's court-appointed guardian or conservator with health care decision-making authority, the patient's surrogate as determined pursuant to Rule 1200-08-26-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(25) ~~(24)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(26) ~~(25)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(27) ~~(26)~~ Home Care Organization. As defined by T.C.A. § 68-11-201, a "home care organization" provides home health services, home medical equipment services or hospice services to patients on an outpatient basis in either their regular or temporary place of residence.

(28) ~~(27)~~ Home Health Aide. A person who has completed a total of seventy-five (75) hours of training which included sixteen (16) hours of clinical training prior to or during the first three (3) months of employment and who is qualified to provide basic services, including simple procedures as extension of therapy services, personal care regarding nutritional needs, ambulation and exercise, and household services essential to health care at home.

(29) ~~(28)~~ Home Health Service. As defined by T.C.A. § 68-11-201, "home health service" means a service provided an outpatient by an appropriately licensed health care professional or an appropriately qualified staff member of a licensed home care organization in accordance with orders recorded by a physician, and which includes one (1) or more of the following:

(a) Skilled nursing care including part-time or intermittent supervision;

(b) Physical, occupational or speech therapy;

(c) Medical social services;

(d) Home health aide services;

(e) Medical supplies and medical appliances, other than drugs and pharmaceuticals, when provided or administered as part of or through the provision of, the services described in subparagraph (a) through (d) ; and

(f) Any of the foregoing items and services which are provided on an outpatient basis under arrangements made by the home care organization at a hospital, nursing home

(Rule 1200-08-26-.01, continued)

facility or rehabilitation center and the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in the individual's home, or which are furnished at such facility while the individual is there to receive any such item or service, but not including transportation of the individual in connection with any such item or service.

(g) Home health service does not include services provided in the home by a sole practice therapist, when such services are within the scope of the therapist's license and incidental to services provided by the sole practice therapist in the office. A sole practice therapist means a therapist licensed under Title 63, Chapter 13 or 17, who is in sole practice and not in a business arrangement with any other therapist or other healthcare provider. Sole practice therapists are not excluded from the requirements of professional support services.

(30) ~~(29)~~ Homemaker Service. A non-skilled service in the home to maintain independent living which does not require a physician's order. An agency does not have to be licensed as a home care organization to provide such services.

(31) ~~(30)~~ Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(32) ~~(31)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(34) ~~(33)~~ Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(35) ~~(34)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(36) ~~(35)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(37) ~~(36)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(38) ~~(37)~~ Medical Record. Medical histories, records, reports, clinical notes, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries and other written electronic or graphic data prepared, kept, made or maintained in an agency that pertains to confinement or services rendered to patients.

(39) ~~(38)~~ Medical Social Services. When provided, shall be given by a certified master social worker, a licensed clinical social worker, or by a social worker or social work assistant employed by the home care organization and under the supervision of a certified master social worker or licensed clinical social worker, in accordance with the plan of care. The medical social services provider shall assist the physician and other team members in understanding the significant social and emotional factors related to the health problems, participate in the development of the plan of care, prepare clinical and progress notes, work with the family, utilize appropriate community resources, participate in discharge planning and in-service programs, and act as a consultant to other organized personnel.

(Rule 1200-08-26-.01, continued)

(40) ~~(39)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or other medical or surgical treatments to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the patient's representative expresses the goals of the patient.

(41) ~~(40)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(42) ~~(41)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(43) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(44) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(45) ~~(42)~~ Patient. Includes but is not limited to any person who is suffering from an acute or chronic illness or injury or who is crippled, convalescent or infirm, or who is in need of obstetrical, surgical, medical, nursing or supervisory care.

~~(43) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(46) ~~(44)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(47) ~~(45)~~ Personally Informing. A communication by any effective means from the patient directly to a health care provider.

(48) ~~(46)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(49) ~~(47)~~ Physical Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(50) ~~(48)~~ Physician. A person currently licensed as such by the Tennessee Board of Medical Examinations or currently licensed by the Tennessee Board of Osteopathic Examination. For the purposes of defining "home health services" only, "physician" includes a podiatrist licensed under Title 63, Chapter 3, provided, that any home health service ordered is a follow-up to treatment provided to the patient by the podiatrist. A physician who is licensed to practice medicine, osteopathy or podiatry in a state contiguous to Tennessee may refer a patient residing in this state to a home care organization providing home

(Rule 1200-08-26-.01, continued)

health services duly licensed under this chapter; however, this shall not be construed as authorizing an unlicensed physician to practice medicine in violation of T.C.A. §§63-6-201, 63-9-104 or 63-3-204, and such a physician shall have previously provided treatment to that patient, and shall have had an ongoing physician-patient relationship with the person for whom the referral is to be made.

(51) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(52) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(53) ~~(49)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(54) ~~(50)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(55) ~~(51)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(56) ~~(52)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(57) ~~(53)~~ Respiratory Technician. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(58) ~~(54)~~ Respiratory Therapist. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(59) ~~(55)~~ Shall or Must. Compliance is mandatory.

(60) ~~(56)~~ Social Work Assistant. A person who has a baccalaureate degree in social work, psychology, sociology or other field related to social work, and has at least one (1) year of social work experience in a health care setting. Social work related fields include bachelor/masters degrees in psychology, sociology, human services (behavioral

(Rule 1200-08-26-.01, continued)

sciences, not human resources), masters degree in counseling fields (psychological guidance and guidance counseling) and degrees in gerontology.

(61) ~~(57)~~ Speech Therapist. A person currently licensed as such by The Tennessee Board of Communication Disorders and Sciences.

(62) ~~(58)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(63) ~~(59)~~ Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board or equivalent body.

(64) ~~(60)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(65) ~~(61)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these rules.

(66) ~~(62)~~ Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(67) ~~(63)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

~~(64) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

Authority: *T.C.A. §§4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendment filed May 27, 2004; effective August 10, 2004. Amendments filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-26-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation or any state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain in the State of Tennessee any Home Care Organization providing Home Health Services without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic area specified by the certificate of need or at the time of the original licensing. The name of the agency shall not be changed without first notifying the Department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the agency.

(2) In order to make application for a license:

(Rule 1200-08-26-.03, continued)

(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 that the plan of correction is unacceptable shall subject the agency's license to possible disciplinary action.

(6) Any licensee or applicant for a license, aggrieved by a decision or action of the Department or Board, pursuant to this chapter, may request a hearing before the Board. The proceedings and judicial review of the Board's decision shall be in accordance with the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-101, et seq.

(7) 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 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: *T.C.A. §§4-5-202, 4-5-204, 4-5-219, 4-5-312, 4-5-316, 4-5-317, 68-11-202, 68-11-204, and 68-11-206 through 68-11-209.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000. Amendment filed March 1, 2007; effective May 15, 2007.*

1200-08-26-.04 ADMINISTRATION.

(1) The home health agency must organize, manage and administer its home health services to attain and maintain the highest practicable functional capacity for each patient regarding medical, nursing and rehabilitative needs as indicated by the plan of care.

(2) The home health agency shall ensure a framework for addressing issues related to care at the end of life.

(3) The home health agency shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

(4) The agency develops and maintains administrative control of any branch office.

(5) The organizational structure, home health services provided, administrative control and lines of authority for the delegation of responsibility down to the patient care level shall be clearly set forth in writing and shall be readily identifiable. Administrative and supervisory functions shall not be delegated to another agency. All home health services not provided directly by the licensed agency shall be monitored and controlled by that agency.

(6) A governing body (or designated persons so functioning) must: assume full legal authority and responsibility for the management and provision of all home health services; fiscal operations; quality assessment and performance improvement programs. The governing body shall appoint a qualified administrator who is responsible for the day-to-day operation of the organization and is responsible for designating people to carry out these functions.

(7) The administrator shall organize and direct the organization's ongoing functions; the professional personnel and the staff; employ qualified personnel and ensure adequate staff education and evaluation for all personnel involved in direct patient care; ensure the accuracy of public information materials and activities; and implement an effective budgeting and accounting system. A person with sufficient experience and training shall

(Rule 1200-08-26-.04, continued)

be authorized in writing to assume temporary duty during the administrator's short-term absence.

(8) An agency shall have a duly qualified administrator accessible during normal operating hours. Any change of administrators shall be reported to the Department within fifteen (15) days.

~~(9) An administrator shall serve no more than one (1) licensed home care organization, which may provide home health, hospice, and/or home medical equipment services.~~

(9) An administrator shall serve no more than one (1) licensed home care organization unless that home care organization provides other categories of home care organization services under the same ownership and at the same location.

(10) The agency shall maintain an office with a working telephone and be staffed during normal business hours.

(11) When licensure is applicable for a particular position of employment, a copy of the current license or the number and renewal number of the employee's current license must be maintained in the employee's personnel file. Each personnel file shall contain accurate information as to the education, training, experience and personnel background of the employee. Proof of adequate medical screenings to exclude communicable disease shall be maintained in the file of each employee.

(12) Personnel practices shall be supported by written personnel policies. Personnel records shall include at a minimum: job descriptions, verification of references and credentials, and performance evaluations. Personnel records must be kept current.

(13) An ongoing educational program shall be planned and conducted for the development and improvement of skills of all the organization's personnel engaged in delivery of home health services. Each employee shall receive appropriate orientation to the organization, its policies, the employee's position, and the employee's duties. Records shall be maintained which indicate the subject of and attendance at such staff development programs.

(14) If personnel, under hourly or per visit contracts, are utilized by the agency, there shall be a written contract between such personnel and the organization clearly designating:

(a) That patients are accepted for care only by the agency;

(b) Which home health services are to be provided;

(c) That it is necessary to conform to all applicable organization policies including personnel qualifications;

(d) The responsibility for participating in developing plans of care;

(e) The manner in which home health services will be controlled, coordinated and evaluated by the agency;

(f) The procedures for submitting clinical and progress notes, scheduling visits and periodic patient evaluations; and

(g) The procedures for determining charges and reimbursement.

(Rule 1200-08-26-.04, continued)

(15) Whenever the rules of this chapter require that a licensee develop a written policy, plan, procedure, technique or system concerning a subject, the licensee shall develop the required policy, maintain it and adhere to its provisions. An agency which violates a required policy also violates the rule establishing the requirement.

(16) Policies and procedures shall be consistent with professionally recognized standards of practice.

(17) All agencies shall adopt appropriate policies regarding the testing of patients and staff for human immunodeficiency virus (HIV) and any other identified causative agent of acquired immune deficiency syndrome.

(18) Each agency utilizing students shall establish policies and procedures for their supervision.

(19) No agency shall retaliate against or, in any manner, discriminate against any person because of a complaint made in good faith and without malice to the Board, the Department, the Department of Human Services Adult Protective Services or the Comptroller of the State Treasury. An agency shall neither retaliate nor discriminate because of information lawfully provided to these authorities, because of a person's cooperation with them or because a person is subpoenaed to testify at a hearing involving one of these authorities.

(20) All health care facilities licensed pursuant to T.C.A. §§ 68-11-201, et seq. shall post the following in the main public entrance:

(a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;

(b) 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 concerning abuse, neglect and exploitation; and

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

Postings of (a) and (b) shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

(21) "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.

(22) The facility shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.

Authority: *T.C.A. §§4-5-202, 4-5-204, 39-17-1803, 39-17-1805, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-222, 68-11-268 and 71-6-121.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed April 20, 2006; effective July 4, 2006. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed February 22, 2010; effective May 23, 2010.*

(Rule 1200-08-26-.12, continued)

(b) To have appropriate assessment and management of pain;

(c) To be involved in the decision making of all aspects of their care;

(d) To be free from mental and physical abuse. Should this right be violated, the agency must notify the Department within five (5) business days and the Tennessee Department of Human Services, Adult Protective Services as required by T.C.A. §71-6-101 et seq.;

(e) To refuse treatment. The patient must be informed of the consequences of that decision, and the refusal and its reason must be reported to the physician and documented in the medical record;

(f) To refuse experimental treatment and drugs. The patient's or health care decision maker's written consent for participation in research must be obtained and retained in the medical record; and

(g) To have their records kept confidential and private. Written consent by the patient must be obtained prior to release of information except to persons authorized by law. If the patient lacks capacity, written consent is required from the patient's health care decision maker. The agency must have policies to govern access and duplication of the patient's record.

(2) Each patient has a right to self-determination, which encompasses the right to make choices regarding life-sustaining treatment, including resuscitative services. This right of self-determination may be effectuated by an advance directive.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed December 2, 2005; effective February 15, 2006.*

1200-08-26-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each home health agency shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a patient who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual patients. 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 patient could have made while having capacity, or may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to authorize the agent to make any health care decision the patient could have made while having capacity.

(3) The advance directive shall be in writing, signed by the patient, 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 patient by blood, marriage, or adoption and would not be entitled to any portion of the estate of the patient upon the death of the patient. The advance directive shall contain a clause that attests that the witnesses comply with the requirements of this paragraph.

(Rule 1200-08-26-.13, continued)

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

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a patient lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.

(7) An agent shall make a health care decision in accordance with the patient'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 patient's best interest. In determining the patient's best interest, the agent shall consider the patient's personal values to the extent known.

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

(9) A health care facility 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 patient'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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 patient 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 patient 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 an 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 an earlier advance directive revokes the earlier directive to the extent of the conflict.

(16) Surrogates.

(Rule 1200-08-26-.13, continued)

(a) An adult or emancipated minor may designate any individual to act as surrogate by personally informing the supervising health care provider. The designation may be oral or written.

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

1. the patient has been determined by the designated physician to lack capacity, and
2. no agent or guardian has been appointed, or
3. the agent or guardian is not reasonably available.

(c) In the case of a patient who lacks capacity, the patient's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the patient is receiving health care.

(d) The patient's surrogate shall be an adult who has exhibited special care and concern for the patient, who is familiar with the patient'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 patient's spouse, unless legally separated;
2. the patient's adult child;
3. the patient's parent;
4. the patient's adult sibling;
5. any other adult relative of the patient; or
6. any other adult who satisfies the requirements of 1200-08-26-.13(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 patient shall be eligible to serve as the patient'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 known wishes of the patient or in accordance with the patient's best interests;
2. The proposed surrogate's regular contact with the patient 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 patient during his or her illness; and

(Rule 1200-08-26-.13, continued)

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 patient lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-26-.13(16)(c) thru 1200-08-26-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the patient after the designated 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 patient'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 patient'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 patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal values to the extent known to the surrogate.

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

(l) Except as provided in 1200-08-26-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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 patient's treating health care provider.

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

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

2. the other requirements of this section are satisfied.

(Rule 1200-08-26-.13, continued)

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

(17) Guardian.

(a) A guardian shall comply with the patient's individual instructions and may not revoke the patient'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 patient 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 patient 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 the determination in the patient's current clinical record and communicate the determination to the patient, if possible, and to any person then authorized to make health care decisions for the patient.

(19) Except as provided in 1200-08-26-.13(20) thru 1200-08-26-.13(22), a health care provider or institution providing care to a patient shall:

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

(b) comply with a health care decision for the patient made by a person then authorized to make health care decisions for the patient to the same extent as if the decision had been made by the patient 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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient.

(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 1200-08-26-.13(20) thru 1200-08-26-.13(22) shall:

(a) promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient;

(Rule 1200-08-26-.13, continued)

(b) provide continuing care to the patient until a transfer can be effected or until the determination has been made that transfer cannot be effected;

(c) unless the patient or person then authorized to make health care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health care provider or institution that is willing to comply with the instruction or decision; 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 patient has the same rights as the patient 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 patient, 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 for such identification 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 patient 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 may be used by a physician for a patient with whom the physician has a physician/patient relationship, but only:~~

~~1. with the consent of the patient; or~~

(Rule 1200-08-26-.13, continued)

~~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 patient is an adult who is capable of making an informed decision, the patient'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 patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient'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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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 patient 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

(Rule 1200-08-26-.13, continued)

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and

(Rule 1200-08-26-.13, continued)

such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

(Rule 1200-08-26-.13, continued)
Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-26-.14 DISASTER PREPAREDNESS.

(1) All agencies shall establish and maintain communications with the local office of the Tennessee Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The agency shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

(2) A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000.*

1200-08-26-.15 APPENDIX I

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

~~(This space intentionally left blank)~~

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

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(Rule 1200-08-26-.15, continued)

A COPY OF THIS 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) (Allow Natural Death) 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 & NUTRITION. Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-26-.15, continued)

~~Name (print)~~	~~Signature~~	~~Relationship (write "self" if patient)~~	
~~Surrogate~~	~~Relationship~~	~~Phone Number~~	
~~Health Care Professional Preparing Form~~	~~Preparer Title~~	~~Phone Number~~	~~Date Prepared~~

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-26-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____
Section D *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/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date NP/CNS/PA (Signature at Discharge)	MD/NP/CNS/PA Phone Number:

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-26-.15, continued)

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-26-.15, continued)

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-26-.15, continued)
Other instructions, such as burial arrangements, hospice care, etc.: _____

_____
_____
_____
_____
_____

(Attach additional pages if necessary)

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

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

_____
_____
_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-26-.15, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
THE TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-27
STANDARDS FOR HOMECARE ORGANIZATIONS
PROVIDING HOSPICE SERVICES

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1200-08-27-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~Administrator. A person who:

(a) Is a licensed physician with at least one (1) year supervisory or administrative experience in home health care, hospice care or related health programs; or

(b) Is a registered nurse with at least one (1) year supervisory or administrative experience in home health care, hospice care or related health programs; or

(c) Has training and experience in health service administration and at least one (1) year of supervisory or administrative experience in home health care, hospice care or related health programs.

(3) ~~(2)~~Adult. An individual who has capacity and is at least 18 years of age.

(4) ~~(3)~~Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) ~~(4)~~Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) ~~(5)~~Agency. A Home Care Organization providing hospice services.

(7) ~~(6)~~Bereavement Counselor. An individual who has at least a bachelor's degree in social work, counseling, psychology, pastoral care or specialized training or experience in bereavement theory and counseling.

(8) ~~(7)~~Board. The Tennessee Board for Licensing Health Care Facilities.

(9) ~~(8)~~Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient to make health care decisions while having the

(Rule 1200-08-27-.01, continued)

capacity to do so. A patient shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient shall have the burden of proving lack of capacity.

(10) ~~(9)~~ Cardiopulmonary Resuscitation (CPR). The administering of any means or device to support cardiopulmonary functions in a patient, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilations or respirations, defibrillation, the administration of drugs and/or chemical agents intended to restore cardiac and/or respiratory functions in a patient where cardiac or respiratory arrest has occurred or is believed to be imminent.

(11) ~~(10)~~ Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.

(12) ~~(11)~~ Clinical Note. A written and dated notation containing a patient assessment, responses to medications, treatments, services, any changes in condition and signed by a health team member who made contact with the patient.

(13) ~~(12)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(14) ~~(13)~~ Competent. A patient who has capacity.

(15) ~~(14)~~ Core Services. Services consisting of nursing, medical social services, physician services and counseling services.

(16) ~~(15)~~ Department. The Tennessee Department of Health.

(17) ~~(16)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

~~(17) Do Not Resuscitate (DNR) Order. An order entered by the patient's treating physician in the patient's medical record which states that in the event the patient 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.~~

(18) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(19) ~~(18)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(20) ~~(19)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(21) ~~(20)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(22) ~~(21)~~ Hazardous Waste. Materials whose handling, use, storage and disposal are governed by local, state or federal regulations.

(Rule 1200-08-27-.01, continued)

(23) ~~(22)~~ Health Care. 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).

(24) ~~(23)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(25) ~~(24)~~ Health Care Decision-maker. In the case of a patient who lacks capacity, the patient's health care decision-maker is one of the following: the patient's health care agent as specified in an advance directive, the patient's court-appointed guardian or conservator with health care decision-making authority, the patient's surrogate as determined pursuant to Rule 1200-08-27-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(26) ~~(25)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(27) (26) Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(28) ~~(27)~~ Home Care Organization. As defined by T.C.A. § 68-11-201, a "home care organization" provides home health services, home medical equipment services or hospice services to patients on an outpatient basis in either their regular or temporary place of residence.

(29) ~~(28)~~ Home Health Aide/Hospice Aide. A person who has completed a total of seventy-five (75) hours of training which included sixteen (16) hours of clinical training prior to or during the first three (3) months of employment and who is qualified to provide basic services, including simple procedures as an extension of therapy services, personal care regarding nutritional needs, ambulation and exercise, and household services essential to health care at home.

(30) ~~(29)~~ Homemaker Service. A non-skilled service in the home to maintain independent living which does not require a physician's order. An agency does not have to be licensed as a home care organization to provide such services.

~~(30) Hospice Services. As defined by T.C.A. § 68-11-201, "hospice services," means a coordinated program of care, under the direction of an identifiable hospice administrator, providing palliative and supportive medical and other services to hospice patients and their families in the patient's regular or temporary place of residence. Hospice services shall be provided twenty-four (24) hours a day, seven (7) days a week. "Hospice services" may also be provided to a non-hospice patient limited to palliative care only.~~

(31) Hospice Services. As defined by T.C.A. § 68-11-201, hospice services means a coordinated program of care, under the direction of an identifiable hospice administrator, providing palliative and supportive medical and other services to hospice patients and their families in the patient's regular or temporary place of residence. Hospice services shall be available twenty-four (24) hours a day, seven (7) days a week pursuant to the patient's Hospice plan of care. A licensed hospice services program may provide services to a non-hospice patient; provided, that services to a non-hospice patient shall be limited to palliative care only.

(32) ~~(31)~~ Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(Rule 1200-08-27-.01, continued)

(33) ~~(32)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(35) ~~(34)~~ Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(36) ~~(35)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(37) ~~(36)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(38) ~~(37)~~ Life Threatening or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(39) ~~(38)~~ Medical Record. Medical histories, records, reports, clinical notes, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries and other written electronic or graphic data prepared, kept, made or maintained in an agency that pertains to confinement or services rendered to patients.

(40) ~~(39)~~ Medical Social Services. Medical social services must be provided by a qualified social worker under the direction of a physician, in accordance with the plan of care.

(41) ~~(40)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or other medical or surgical treatments to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the patient's representative expresses the goals of the patient.

(42) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(43) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(44) ~~(41)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(45) ~~(42)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(46) ~~(43)~~ Palliative. The reduction or abatement of pain or troubling symptoms, by appropriate coordination of all elements of the hospice care team, to achieve needed relief of distress.

(47) ~~(44)~~ Patient. Hospice patient means only a person who has been diagnosed as terminally ill; been certified by a physician in writing to have an anticipated life expectancy of six (6) months or less; has voluntarily though self or a surrogate requested admission to a hospice;

(Rule 1200-08-27-.01, continued)

and been accepted by a licensed hospice. Patient will also include a non-hospice patient receiving only palliative care.

~~(45) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(48) ~~(46)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(49) ~~(47)~~ Personally Informing. A communication by any effective means from the patient directly to a health care provider.

(50) ~~(48)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(51) ~~(49)~~ Physical Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(52) ~~(50)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

(53) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(54) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(55) ~~(51)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(56) ~~(52)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(Rule 1200-08-27-.01, continued)

(57) ~~(53)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(58) ~~(54)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(59) ~~(55)~~ Respiratory Technician. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(60) ~~(56)~~ Respiratory Therapist. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(61) ~~(57)~~ Respite Care. A short-term period of inpatient care provided to the patient only when necessary to relieve the family members or other persons caring for the patient.

(62) ~~(58)~~ Shall or Must. Compliance is mandatory.

(63) ~~(59)~~ Social Work Assistant. A person who has a baccalaureate degree in social work, psychology, sociology or other field related to social work, and has at least one (1) year of social work experience in a health care setting. Social work related fields include bachelor/masters degrees in psychology, sociology, human services (behavioral sciences, not human resources), masters degree in counseling fields (psychological guidance and guidance counseling) and degrees in gerontology.

(64) ~~(60)~~ Speech Language Pathologist. A person currently licensed as such by The Tennessee Board of Communication Disorders and Sciences.

(65) ~~(61)~~ Spiritual Counselor. A person who has met the requirements of a religious organization to serve the constituency of that religious organization.

(66) ~~(62)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(67) (63) Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board or equivalent body.

(68) ~~(64)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(69) ~~(65)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these rules.

(70) ~~(66)~~ Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(71) ~~(67)~~ Terminally ill. An individual with a medical prognosis that his or her life expectancy is six (6) months or less if the illness runs its normal course.

(Rule 1200-08-27-.01, continued)

(72) ~~(68)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

~~(69) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

(73) ~~(70)~~ Volunteer. An individual who agrees to provide services to a hospice care patient and/or family member(s), without monetary compensation, in either direct patient care or an administrative role and supervised by an appropriate hospice care employee.

Authority: *T.C.A. §§4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed December 23, 2009; effective March 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-27-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate or maintain in the State of Tennessee any Home Care Organization providing Hospice Services without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic area specified by the certificate of need or at the time of the original licensing. The name of the agency shall not be changed without first notifying the Department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the agency.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the Department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the Department. Patients shall not be admitted to the agency until a license has been issued. Applicants shall not hold themselves out to the public as being an agency until the license has been issued. A license shall not be issued until the agency is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the agency.

(e) 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 individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the home care agency providing hospice services to be inspected by a Department surveyor. In the event that deficiencies are noted, the

(Rule 1200-08-27-.05, continued)

(e) Is a non-hospice patient that has been determined to need palliative care only.

(2) Patients shall be accepted to receive hospice services on the basis of a reasonable expectation that the patient's medical, nursing and psychosocial needs can be met adequately by the organization in the patient's regular or temporary place of residence.

(3) Care shall follow a written plan of care established and reviewed by the attending physician, the medical director or physician designee and the interdisciplinary group prior to providing care. Care shall continue under the supervision of the attending physician.

(4) The agency staff shall determine if the patient's needs can be met by the organization's services and capabilities.

(5) Every person admitted for care or treatment to any agency covered by these rules shall be under the supervision of a physician as defined in this chapter who holds a license in good standing. The name of the patient's attending physician shall be recorded in the patient's medical record.

(6) The agency staff shall obtain the patient's written consent for hospice services.

(7) The signed consent form shall be included with the patient's individual clinical record.

(8) A diagnosis must be entered in the admission records of the agency for every person admitted for care or treatment.

(9) No medication or treatment shall be provided to any patient of an agency except on the order of a physician or dentist lawfully authorized to give such an order.

(10) A medical record shall be developed and maintained for each patient admitted.

(11) No patient shall be involuntarily discharged without a written order from the attending physician or the medical director stating the patient does not meet hospice criteria, or through other legal processes, and timely notification of next of kin and/or the authorized representative.

(12) When a patient is discharged, a summary of the significant findings and events of the patient's care, the patient's condition on discharge and the recommendation and arrangement for future care, if any, is required.

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

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000. Amendment filed December 23, 2009; effective March 23, 2010.*

1200-08-27-.06 BASIC AGENCY FUNCTIONS.

~~(1) An organization providing hospice services must ensure that substantially all core services are routinely provided directly by hospice employees. A hospice service program may use contracted staff if necessary to supplement hospice service program employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary~~

(Rule 1200-08-27-.06, continued)

~~circumstances. If contracting is used, the organization providing hospice services must maintain professional, financial and administrative responsibility for the services and must assure that the qualifications of staff and services provided meet the requirements specified in this rule.~~

(1) An organization providing hospice services must ensure that substantially all core services are routinely provided directly by hospice employees. The hospice services program may contract for physician services. The hospice services program may use contracted staff for nursing services, medical social services, and counseling services if necessary to supplement hospice employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. If contracting is used, the hospice services program must maintain professional, financial, and administrative responsibility for the services and must assure that the qualifications of the individuals and services meet the requirements specified in this rule.

(a) Nursing services. The hospice service program must provide nursing care and services by or under the supervision of a registered nurse (R.N.) at all times.

1. Nursing services must be directed and staffed to assure the nursing needs of patients are met.

2. Patient care responsibilities of nursing personnel must be specified.

3. Hospice services must be provided in accordance with recognized standards of practice.

4. A registered nurse may make the actual determination and pronouncement of death under the following circumstances:

(i) The deceased was receiving the services of a licensed home care organization providing Medicare-certified hospice services;

(ii) Death was anticipated, and the attending physician and/or the hospice medical director has agreed in writing to sign the death certificate. Such agreement must be present with the deceased at the place of death;

(iii) The nurse is licensed by the state; and,

(iv) The nurse is employed by the home care organization providing hospice services to the deceased.

(b) Medical Social Services. Medical Social Services must be provided by a qualified social worker under the direction of a physician.

(c) Physician Services. In addition to palliation and management of terminal illness and related conditions, physician employees of the hospice service program, including the physician member(s) of the interdisciplinary group, must also meet the general medical needs of the patients to the extent these needs are not met by the attending physician.

(d) Counseling Services. Counseling services must be made available to both the patient and the family. Counseling includes bereavement counseling, provided both prior to and after the patient's death, as well as dietary, therapeutic, spiritual and any other counseling services identified in the Plan of Care for the patient and family.

(Rule 1200-08-27-.06, continued)

1. Bereavement counseling. There must be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services should reflect family needs, services to be provided and the frequency of services.

2. Dietary counseling. Dietary counseling, when required, must be provided by a qualified individual.

3. Spiritual counseling. Spiritual counseling must include notice as to the availability of clergy.

4. Additional counseling. Counseling may be provided by other members of the interdisciplinary group as well as by other qualified professionals as determined by the hospice program.

(2) Plan of Care. A written plan of care must be established and maintained for each patient admitted to a hospice program and the care provided must be in accordance with the plan.

(a) Establishment of plan. The plan must be established by the attending physician, the medical director or the physician's designee and the interdisciplinary group prior to providing care.

~~(b) Review of plan. The plan must be reviewed and updated as the patient's condition changes, but at intervals of no more than fourteen (14) days, by the attending physician, the medical director or the physician's designee and the interdisciplinary group. These reviews must be documented.~~

(b) Review of Plan. The plan must be reviewed and updated as the patient's condition changes, but at intervals of no more than fifteen (15) days, by the attending physician, the medical director or the physician's designee and interdisciplinary group. These reviews must be documented.

(c) Content of plan. The plan must include an assessment of the individual's needs and identification of the hospice services required, including the management of discomfort and symptom relief. It must state in detail the scope and frequency of services needed to meet the patient's and family's needs.

(3) Interdisciplinary Group. The organization providing hospice services must designate an interdisciplinary group(s) composed of individuals who provide or supervise the care and services offered by the hospice program:

(a) Composition of Group. The hospice service program must have an interdisciplinary group or groups that include at least the following individuals who are employees of the hospice service program:

1. A doctor of medicine or osteopathy;

2. A registered nurse;

3. A social worker; and

4. A pastoral or other counselor.

(b) Role of Group. The interdisciplinary group is responsible for:

(Rule 1200-08-27-.06, continued)

1. Participation in the establishment of the plan of care;

2. Provision or supervision of hospice care and services;

3. Periodic review and updating of the plan of care for each individual receiving hospice care; and

4. Establishment of policies governing the day-to-day provision of hospice care and services.

(c) If a hospice service program has more than one interdisciplinary group, it must designate in advance the group it chooses to execute the functions described in part (b) of this paragraph.

(4) Coordinator. The hospice service program must designate a registered nurse to coordinate the implementation of the plan of care of each patient.

(5) Volunteers. The hospice service program may use volunteers, in defined roles, under the supervision of a designated hospice program employee.

(a) Training. The hospice program must provide appropriate orientation and training that is consistent with acceptable standards of hospice practice.

(b) Role. Volunteers may be used in administrative or direct patient care roles.

1. Recruiting and retaining. The hospice must document active and ongoing efforts to recruit and train volunteers.

2. Availability of clergy. The hospice service program must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to patients who request such visits and must advise patients of this opportunity.

(6) Continuation of Care. An organization providing hospice services must assist in coordinating continued care should the patient be transferred or discharged from the hospice program or the organization.

(7) Short Term Inpatient Care. Short term inpatient care is available for pain control, symptom management and respite services, and if not provided directly, must be provided under a legally binding written agreement that meets the requirements of subparagraph (b) of this paragraph in a licensed nursing home, hospital, or residential hospice which meets the following minimum requirements:

(a) Whether provided directly or indirectly, the facility that provides short term inpatient care must provide twenty-four (24) hour nursing services which are sufficient to meet total nursing needs in accordance with the patient's plan of care. Each hospice patient must receive treatments, medications, and diet as prescribed, and must be kept comfortable, clean, well-groomed and protected from accident, injury and infection. Each shift must include a registered nurse (R.N.) who provides direct patient care.

1. Respite services shall be staffed in accordance with the patient's Hospice Plan of Care.

2. The Hospice Plan of Care will state whether a registered nurse is required to provide direct care to the hospice patient.

(Rule 1200-08-27-.06, continued)

3. Respite services may be provided in an Assisted Care Living Facility so long as the provisions of Rule 1200-08-27-.06 (7)(b) – (g) are met.

(b) The facility must be designed and equipped for the comfort and privacy of each hospice patient and family member(s) by providing physical space for private patient/family visiting, accommodations for family members to remain with the patient throughout the night, accommodations for family privacy following a patient's death and decor which is home-like in design and function.

(c) The hospice must furnish to the inpatient provider a copy of the patient's plan of care and specify the inpatient services to be furnished.

(d) The inpatient provider must have established policies consistent with those of the hospice and agree to abide by the patient care protocols established by the hospice for its patients.

(e) The medical record must include a record of all inpatient services and events. A copy of the discharge summary must be provided to the hospice and, if requested, a copy of the medical record is to be provided to the hospice.

(f) The written agreement must designate the party responsible for the implementation of the provisions of the agreement.

(g) The hospice shall retain responsibility for appropriate hospice care training of the personnel who provide the care under the agreement.

(8) Drugs and treatments shall be administered by appropriately licensed agency personnel, acting within the scope of their licenses. Oral orders for drugs and treatments shall be given to appropriately licensed personnel acting within the scope of their licenses, immediately recorded, signed and dated, and countersigned and dated by the physician.

(9) Performance Improvement Program. Each agency must conduct an ongoing, comprehensive, integrated, self-assessment of the quality and appropriateness of past and present care provided, including inpatient care and contract services. The written performance improvement plan findings are to be used by the hospice to determine the appropriateness and effectiveness of the care provided and to ascertain that professional policies are followed in providing these services. The objectives of those responsible for the performance improvement program are as follows:

(a) To assist the agency in using its personnel and facilities to meet individual and community needs;

(b) To identify and correct problems and/or deficiencies which undermine quality of care and lead to waste of agency and personnel resources;

(c) To help the agency make critical judgments regarding the quality and quantity of its services through self-examination;

(d) To provide opportunities to evaluate the effectiveness of agency policies and when necessary make recommendations to the administration as to controls or changes needed to assure high standards of patient care;

(e) To provide data needed to satisfy state licensure and federal certification requirements; and

(Rule 1200-08-27-.06, continued)

(f) To establish criteria to measure the effectiveness and efficiency of the hospice services provided to patients.

(10) Infection Control.

(a) There must be an active performance improvement program for developing guidelines, policies, procedures and techniques for the prevention, control and investigation of infections and communicable diseases.

(b) Formal provisions must be developed to educate and orient all appropriate personnel and/or family members in the practice of aseptic techniques such as handwashing and scrubbing practices, proper hygiene, use of personal protective equipment, dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of patient care equipment and supplies.

(c) Continuing education shall be provided for all agency patient care providers on the cause, effect, transmission, prevention and elimination of infections, as evidenced by the ability to verbalize/or demonstrate an understanding of basic techniques.

(d) The agency shall develop policies and procedures for testing a patient's blood for the presence of the hepatitis B virus and the HIV (AIDS) virus in the event that an employee of the agency, a student studying at the agency or other health care provider rendering services at the agency is exposed to a patient's blood or other body fluid. The testing shall be performed at no charge to the patient, and the test results shall be confidential.

(e) The agency and its employees shall adopt and utilize standard precautions (per CDC) for preventing transmission of infections, HIV and communicable diseases.

(f) Precautions shall be taken to prevent the contamination of sterile and clean supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents.

(11) Home Health Aide/Hospice Aide Services. Home Health Aide Services must be available and adequate in frequency to meet the needs of the patients.

(a) The home health aide shall be assigned to a particular patient by a registered nurse. Written instructions for patient care shall be prepared by a registered nurse or therapist as appropriate. Duties may include the performance of simple procedures as an extension of therapy services, personal care, ambulation and exercises, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.

(b) The registered nurse, or appropriate professional staff member if other home health services are provided, shall make a supervisory visit to the patient's residence at least monthly, either when the aide is present to observe and assist or when the aide is absent (preferably alternating visits), to assess the aide's competence in providing care and determine whether goals are being met.

(c) There shall be continuing in-service programs on a regularly scheduled basis with on-the-job training during supervisor visits as issues are identified.

(Rule 1200-08-27-.06, continued)

(12) Physical Therapy, Occupational Therapy and Speech Language Pathology Services. Physical therapy services, occupational therapy services, and speech language pathology services must be available and when provided, offered in a manner consistent with accepted standards of practice.

(13) Medical Supplies. Medical supplies and appliances, including drugs and biologicals, must be provided as needed for the palliation and management of the terminal illness or conditions directly attributable to the terminal diagnosis.

(a) Administration. All drugs and biologicals must be administered in accordance with accepted standards of practice and only by appropriately licensed employees of the hospice.

(b) The hospice must have a policy for the disposal of controlled drugs maintained in the patient's home or temporary place of residence when those drugs are no longer needed by the patient.

(c) Drugs and biologicals may be administered by the patient or his/her family member if the patient's attending physician has approved.

(14) Medical Records.

(a) A medical record containing past and current findings in accordance with accepted professional standards shall be maintained for every patient receiving hospice services. In addition to the plan of care, the record shall contain: appropriate identifying information; name of physician; all medications and treatments; and signed and dated clinical notes. Clinical notes shall be written the day on which service is rendered and incorporated no less often than weekly; copies of summary reports shall be sent to the physician; and a discharge summary shall be dated and signed within 7 days of discharge.

(b) A home care organization providing hospice services is authorized to receive and appropriately act on a written order for a plan of care for a patient concerning a home health service signed by a physician that is transmitted to the agency by electronically signed electronic mail. Such order that is transmitted by electronic mail shall be deemed to meet any requirement for written documentation imposed by this regulation.

(c) All medical records, either written, electronic, graphic or otherwise acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least ten (10) years after which such records may be destroyed. However, in cases of patients under mental disability or minority, their complete agency records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the patient, whichever is longer. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of the contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the agency's policies and procedures, and no record may be destroyed on an individual basis.

(d) Even if the agency discontinues operations, records shall be maintained as mandated by this Chapter and the Tennessee Medical Records Act (T.C.A. §§ 68-11-308). If a patient is transferred to another health care facility or agency, a copy of the record or an abstract shall accompany the patient when the agency is directly involved in the transfer.

(Rule 1200-08-27-.06, continued)

(e) Medical records information shall be safeguarded against loss or unauthorized use. Written procedures govern use and removal of records and conditions for release of information. The patient's written consent shall be required for release of information when the release is not otherwise authorized by law.

(f) For purposes of this rule, the requirements for signature or countersignature by a physician or other person responsible for signing, countersigning or authenticating an entry may be satisfied by the electronic entry by such person of a unique code assigned exclusively to him or her, or by entry of other unique electronic or mechanical symbols, provided that such person has adopted same as his or her signature in accordance with established protocol or rules.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-3-511, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-260 and 68-11-304.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000. Amendment filed September 13, 2002; effective November 27, 2002 Amendment filed February 23, 2007; effective May 9, 2007.*

1200-08-27-.07 RESERVED.

1200-08-27-.08 RESERVED.

1200-08-27-.09 RESERVED.

1200-08-27-.10 INFECTIOUS AND HAZARDOUS WASTE.

(1) Each agency must develop, maintain and implement written policies and procedures for the definition and handling of its infectious and hazardous waste. These policies and procedures must comply with the standards of this rule and all other applicable state and federal regulations.

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

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

(b) All discarded sharps (including but not limited to, hypodermic needles, syringes, pasteur pipettes, broken glass and scalpel blades) used in patient care; and

(c) Other waste determined to be infectious by the agency in its written policy.

(3) Waste must be packaged in a manner that will protect waste handlers and the public from possible injury and disease that may result from exposure to the waste. Such packaging must provide for containment of the waste from the point of generation up to the point of proper treatment or disposal. Packaging must be selected and utilized for the type of waste the package will contain, how the waste will be treated and disposed, and how it will be handled and transported prior to treatment and disposal.

(a) Contaminated sharps must be directly placed in leakproof, rigid and puncture-resistant containers which must then be tightly sealed.

(b) Infectious and hazardous waste must be secured in fastened plastic bags before placement in a garbage can with other household waste.

(Rule 1200-08-27-.12, continued)

1200-08-27-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each hospice agency shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a patient who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual patients. 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 patient could have made while having capacity, or may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to authorize the agent to make any health care decision the patient could have made while having capacity.

(3) The advance directive shall be in writing, signed by the patient, 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 patient by blood, marriage, or adoption and would not be entitled to any portion of the estate of the patient upon the death of the patient. 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 authority of an agent becomes effective only upon a determination that the patient lacks capacity, and ceases to be effective upon a determination that the patient has recovered capacity.

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a patient lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.

(7) An agent shall make a health care decision in accordance with the patient'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 patient's best interest. In determining the patient's best interest, the agent shall consider the patient's personal values to the extent known.

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

(9) A health care facility 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 patient'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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, shall be given effect and interpreted in accord with

(Rule 1200-08-27-.13, continued)

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 patient 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 patient 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

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

1. the patient has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(c) In the case of a patient who lacks capacity, the patient's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the patient is receiving health care.

(d) The patient's surrogate shall be an adult who has exhibited special care and concern for the patient, who is familiar with the patient'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 patient's spouse, unless legally separated;

2. the patient's adult child;

3. the patient's parent;

4. the patient's adult sibling;

5. any other adult relative of the patient; or

(Rule 1200-08-27-.13, continued)

6. any other adult who satisfies the requirements of 1200-08-27-.13(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 patient shall be eligible to serve as the patient'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 known wishes of the patient or in accordance with the patient's best interests;

2. The proposed surrogate's regular contact with the patient 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 patient 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 patient lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-27-.13(16)(c) thru 1200-08-27-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the patient after the designated 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 patient'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 patient'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 patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal values to the extent known to the surrogate.

(k) A surrogate who has not been designated by the patient may make all health care decisions for the patient that the patient could make on the patient's own behalf, except that artificial nutrition and hydration may be withheld or withdrawn for a patient upon a decision of the surrogate only when the designated physician and a second independent physician certify in the patient's current clinical records that the provision

(Rule 1200-08-27-.13, continued)

or continuation of artificial nutrition or hydration is merely prolonging the act of dying and the patient is highly unlikely to regain capacity to make medical decisions.

(l) Except as provided in 1200-08-27-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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 patient's treating health care provider.

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

1. the employee so designated is a relative of the patient 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 patient to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.

(17) Guardian.

(a) A guardian shall comply with the patient's individual instructions and may not revoke the patient'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 patient 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 patient 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 the determination in the patient's current clinical record and communicate the determination to the patient, if possible, and to any person then authorized to make health care decisions for the patient.

(19) Except as provided in 1200-08-27-.13(20) thru 1200-08-27-.13(22), a health care provider or institution providing care to a patient shall:

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

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

(Rule 1200-08-27-.13, continued)

(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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient.

(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 1200-08-27-.13(20) thru 1200-08-27-.13(22) shall:

(a) promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient;

(b) provide continuing care to the patient until a transfer can be effected or until the determination has been made that transfer cannot be effected;

(c) unless the patient or person then authorized to make health care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health care provider or institution that is willing to comply with the instruction or decision; 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 patient has the same rights as the patient 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 patient, 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.

(Rule 1200-08-27-.13, continued)

(27) A person identifying a surrogate is not subject to civil or criminal liability or to discipline for unprofessional conduct for such identification 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 patient 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 may be used by a physician for a patient with whom the physician 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 patient is an adult who is capable of making an informed decision, the patient'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 patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient'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 or by the department of mental health 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 individual in transport~~

(Rule 1200-08-27-.13, continued)

~~to the receiving health care facility. Upon admission, the receiving facility shall make the Universal Do Not Resuscitate Order a part of the individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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 patient 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act;

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being

(Rule 1200-08-27-.13, continued)

discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(Rule 1200-08-27-.13, continued)

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-27-.14 DISASTER PREPAREDNESS.

(1) All agencies shall establish and maintain communications with the local office of the Tennessee Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The agency shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

(2) A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000.*

1200-08-27-.15 APPENDIX I

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

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

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(Rule 1200-08-27-.15, continued)

A COPY OF THIS 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) (Allow Natural Death) 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 & NUTRITION. Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-27-.15, continued)

~~Name (print)~~	~~Signature~~	~~Relationship (write "self" if patient)~~	
~~Surrogate~~	~~Relationship~~	~~Phone Number~~	
~~Health Care Professional Preparing Form~~	~~Preparer Title~~	~~Phone Number~~	~~Date Prepared~~

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-27-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-27-.15, continued)

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-27-.15, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that

(Rule 1200-08-27-.15, continued)
medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-27-.15, continued)
Other instructions, such as burial arrangements, hospice care, etc.: _____

_____
_____
_____
_____
_____

(Attach additional pages if necessary)

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

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

_____
_____
_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-27-.15, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
THE TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-28
STANDARDS FOR HIV SUPPORTIVE LIVING CENTERS

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1200-08-28-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~Administrator. An individual appointed by a governing body who is responsible for the day to day management of the HIV Supportive Living Facility.

(3) ~~(2)~~Adult. An individual who has capacity and is at least 18 years of age.

(4) ~~(3)~~Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) ~~(4)~~Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) ~~(5)~~Bereavement Counseling. Counseling services provided to the individual's family and/or significant other both prior to and after the individual's death.

(7) ~~(6)~~Bereavement Counselor. An individual who has at least a bachelor's degree in social work, counseling, psychology, pastoral care, or specialized training or experience in bereavement theory and counseling.

(8) ~~(7)~~Board. The Tennessee Board for Licensing Health Care Facilities.

(9) ~~(8)~~Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a resident to make health care decisions while having the capacity to do so. A resident shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a resident shall have the burden of proving lack of capacity.

(10) ~~(9)~~ Cardiopulmonary Resuscitation (CPR). The administering of any means or device to support cardiopulmonary functions in a resident, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilations or respirations, defibrillation, the administration of drugs and/or

(Rule 1200-08-28-.01, continued)

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.

(11) ~~(10)~~ Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.

(12) ~~(11)~~ Clinical Note. A written and dated notation containing a resident assessment, responses to medications, treatments and services and/or any changes in condition signed by a health professional who made contact with the resident, family or significant other.

(13) ~~(12)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(14) ~~(13)~~ Competent. A resident who has capacity.

(15) ~~(14)~~ Core Services. Services consisting of nursing, medical social services, physician services and counseling services.

(16) ~~(15)~~ Department. The Tennessee Department of Health.

(17) ~~(16)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(18) ~~(17)~~ Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners.

~~(18) Do Not Resuscitate (DNR) Order. An order entered by the resident's treating physician in the resident's file 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.~~

(19) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(20) ~~(19)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(21) ~~(20)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(22) ~~(21)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(23) ~~(22)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state, or federal regulations.

(24) ~~(23)~~ Health Care. 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).

(25) ~~(24)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(Rule 1200-08-28-.01, continued)

(26) ~~(25)~~ Health Care Decision-maker. 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 Rule 1200-08-28-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(27) ~~(26)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(28) ~~(27)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(29) ~~(28)~~ Home Care Organization. As defined by T.C.A. § 68-11-201 "home care organizations" provides home health services, home medical equipment services or hospice services to residents on an outpatient basis in either their regular or temporary place of residence.

(30) ~~(29)~~ Hospice Services. As defined by T.C.A. §68-11-201, "hospice services" means a coordinated program of care, under the direction of an identifiable hospice administrator, providing palliative and supportive medical and other services to hospice patients and their families in the patient's regular or temporary place of residence. Hospice services shall be provided twenty-four (24) hours a day, seven (7) days a week.

(31) ~~(30)~~ Incompetent. A resident who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(32) ~~(31)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(34) ~~(33)~~ Involuntary Transfer. The movement of a resident without the consent of the resident, the resident's legal guardian, next of kin or representative, with required notification to the appropriate agencies.

(35) ~~(34)~~ Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(36) ~~(35)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(37) ~~(36)~~ Licensed Psychologist. A person currently licensed as such by the Tennessee Board of Examiners in Psychology.

(38) ~~(37)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(39) ~~(38)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(40) ~~(39)~~ Medical Director. A licensed physician employed by the HIV supportive living facility to be responsible for medical care in the facility.

(Rule 1200-08-28-.01, continued)

(41) ~~(40)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the resident's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(42) ~~(41)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the resident or other medical or surgical treatments to achieve the expressed goals of the informed resident. In the case of the incompetent resident, the resident's representative expresses the goals of the resident.

(43) ~~(42)~~ Medical Social Services. When provided, shall be given by a certified master social worker, a licensed clinical social worker, or by a social worker or social work assistant employed by a home care organization or by contract with the facility and under the supervision of a certified master social worker or licensed clinical social worker, and in accordance with the plan of care. The medical social services provider shall assist the physician and other team members in understanding the significant social and emotional factors related to the health problems, participate in the development of the plan of care, prepare clinical and progress notes, work with the family, utilize appropriate community resources, participate in discharge planning and inservice programs, and act as a consultant to other organization personnel.

(44) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(45) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(46) ~~(43)~~ N.F.P.A. The National Fire Protection Association.

(47) ~~(44)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(48) ~~(45)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(49) ~~(46)~~ Palliative. The reduction or abatement of pain or troubling symptoms by appropriate coordination of all elements of the health care team to achieve needed relief of distress.

~~(47) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(50) ~~(48)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(Rule 1200-08-28-.01, continued)

(51) ~~(49)~~ Personal Care Aide. A nursing assistant or a person who can demonstrate through other education or experience that he or she is qualified to provide assistance with basic care services, including simple procedures such as feeding, personal grooming, ambulating, socializing, medication prompting, exercising and other household services essential to health care.

(52) ~~(50)~~ Personally Informing. A communication by any effective means from the resident directly to a health care provider.

(53) ~~(51)~~ Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.

(54) ~~(52)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(55) ~~(53)~~ Physical Therapist Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(56) ~~(54)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

(57) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(58) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(59) ~~(55)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(60) ~~(56)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(61) ~~(57)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the resident's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(62) ~~(58)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(Rule 1200-08-28-.01, continued)

(63) ~~(59)~~ Resident. An individual who has been diagnosed with symptomatic HIV (human immunodeficiency virus) disease, who has a physician who acts as the primary care provider, and who has voluntarily requested admission to, and been accepted by a licensed residential facility.

(64) ~~(60)~~ Resident File. Medical histories, records, reports, clinical notes, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, and other written electronics, or graphic data prepared, kept, made or maintained in the facility that pertains to confinement or services rendered to residents.

(65) ~~(61)~~ Respiratory Therapist. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(66) ~~(62)~~ Respiratory Therapy Technician. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(67) ~~(63)~~ Respite Care. A short-term period of inpatient care provided to a hospice patient only when necessary to relieve the family members or other persons caring for the patient.

(68) ~~(64)~~ Secured Unit. A facility or distinct part of a facility where the residents are intentionally denied egress by any means.

(69) ~~(65)~~ Shall or Must. Compliance is mandatory.

(70) ~~(66)~~ Social Worker. An individual who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education and has one (1) year of social work experience in a health care setting.

(71) ~~(67)~~ Social Work Assistant. A person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work, and has at least one (1) year of social work experience in a health care setting. Social work related fields include bachelor/masters degrees in psychology, sociology, human services (behavioral sciences, not human resources), masters degree in counseling fields (psychological guidance and guidance counseling) and degrees in gerontology.

(72) ~~(68)~~ Speech Language Pathologist. A person currently licensed as such by The Tennessee Board of Communication Disorders and Sciences.

(73) ~~(69)~~ Spiritual Counselor. A person who has met the requirements of a religious organization to serve the constituency of that organization.

(74) ~~(70)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(75) ~~(71)~~ Student. A person currently enrolled in an accredited course of study that is approved by the appropriate licensing board or equivalent body.

(76) ~~(72)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(77) ~~(73)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if

(Rule 1200-08-28-.01, continued)

the person is not a licensed or certified assistant, unless otherwise provided in accordance with these regulations.

(78) ~~(74)~~ Surrogate. An individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident.

(79) ~~(75)~~ Terminally ill. An individual with a medical prognosis that his or her life expectancy is six (6) months or less if the illness runs its normal course.

(80) ~~(76)~~ Transfer. The movement of a resident at the direction of a physician or other qualified or certified professionals when a physician is not readily available, but does not include such movement of a resident who leaves the facility against medical advice.

(81) ~~(77)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the resident.

~~(78) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

(82) (79) Volunteer. An individual who agrees to provide services to a resident, staff, significant other and/or family member(s), without monetary compensation, with appropriate supervision by the facility.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-216, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed July 27, 2000; effective October 10, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed December 15, 2005; effective February 28, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-28-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate, or maintain in the State of Tennessee any HIV supportive living facility without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure at the time of the original licensing. The name of the HIV supportive living facility shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the HIV supportive living facility.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee based on the number of beds as follows:

1.	Less than 25 beds	$ 800.00
2.	25 to 49 beds, inclusive	$ 1,000.00
3.	50 to 74 beds, inclusive	$1,200.00
4.	75 to 99 beds, inclusive	$1,400.00

(Rule 1200-08-28-.12, continued)

(r) To manage personal financial affairs. Any request by the resident for assistance must be in writing. A request for any additional person to have access to a resident's funds must also be in writing;

(s) To be told in writing before or at the time of admission about the services available in the facility, about any extra charges and charges for services not covered;

(t) To be free from discrimination because of the exercise of the right to speak and voice complaints;

(u) To exercise his/her own independent judgment by executing any documents, including admission forms; and

(v) To voice grievances and complaints and to recommend changes in policies and services to the facility staff, or outside representatives of the resident's choice. The facility shall establish a grievance procedure and fully inform the resident and family/significant other of same.

(2) The rights set forth in this section may be abridged, restricted, limited or amended only as follows:

(a) When medically contraindicated;

(b) When necessary to protect and preserve the rights of the residents in the facility; or

(c) When contradicted by the explicit provisions of another rule of the board.

(3) Any reduction in resident's rights must be explicit, reasonable, appropriate to the justification, the least restrictive response feasible, shall be explained to the resident, and must be documented in the individual resident's record by reciting the limitation's reason and scope.

(4) Residents' pets and other animals utilized for pet therapy programs shall be allowed in the facility. The facility shall designate in its policies and procedures those areas where animals will be excluded. The areas designated shall be determined based upon an assessment of the facility performed by medically trained personnel.

(5) Each resident has a right to self-determination, which encompasses the right to make choices regarding life-sustaining treatment (including resuscitative services). This right of self-determination may be effectuated by an advance directive.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed July 27, 2000; effective October 10, 2000. Amendment filed June 18, 2002; September 1, 2002. Amendment filed December 15, 2005; effective February 28, 2006.*

1200-08-28-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each HIV supportive living facility 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 may limit the power of the agent, and may include

(Rule 1200-08-28-.13, continued)

individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to 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 estate of the resident upon the death of the resident. 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 authority of an agent becomes effective only upon a determination that the resident lacks capacity, and ceases to be effective upon a determination that the resident has recovered capacity.

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a resident lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she 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) A health care facility 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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 an intent to revoke.

(Rule 1200-08-28-.13, continued)

(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 an earlier 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 the supervising health care provider. The designation may be oral or written.

(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 resident has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(c) In the case of a resident who lacks capacity, the resident's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the resident is receiving health care.

(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 1200-08-28-.13(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 known wishes of the resident or in accordance with the resident's best interests;

(Rule 1200-08-28-.13, continued)

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 1200-08-28-.13(16)(c) thru 1200-08-28-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the resident after the designated 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 to the surrogate.

(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 1200-08-28-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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.

(Rule 1200-08-28-.13, continued)

(m) An employee of the treating health care provider or an employee of an operator of a health care institution may be designated as a surrogate 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 the 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 1200-08-28-.13(20) thru 1200-08-28-.13(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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated 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.

(Rule 1200-08-28-.13, continued)

(23) A health care provider or institution that declines to comply with an individual instruction or health care decision pursuant to 1200-08-28-.13(20) thru 1200-08-28-.13(22) shall:

(a) promptly so inform the resident, if possible, and any person then authorized to make health care decisions for the resident;

(b) provide continuing care to the resident until a transfer can be effected or until the determination has been made that transfer cannot be effected;

(c) unless the resident or person then authorized to make health care decisions for the resident refuses assistance, 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; 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 for such identification 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 may be used by a physician for a patient with whom the physician has a physician/patient relationship, but only:~~

(Rule 1200-08-28-.13, continued)

~~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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

(Rule 1200-08-28-.13, continued)

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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

(Rule 1200-08-28-.13, continued)

Tennessee Health Care Decisions Act, is not reasonably available and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

(Rule 1200-08-28-.13, continued)

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed July 27, 2000; effective October 10, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed December 15, 2005; effective February 28, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-28-.14 DISASTER PREPAREDNESS.

(1) Emergency Electrical Power.

(a) If an HIV supportive living facility chooses to have one or more on-site electrical generators, they shall be capable of providing emergency electrical power to at least all life sustaining equipment and life sustaining resources such as: ventilators; blood banks, biological refrigerators, safety switches for boilers, safety lighting for corridors and stairwells and other essential equipment.

(b) Connections shall be through a switch which shall automatically transfer the circuits to the emergency power source in case of power failure. It is recognized that some equipment may not sustain automatic transfer and provisions will have to be made to manually change these items from a non-emergency powered outlet to an emergency powered outlet or other power source. All emergency power transfer switches shall be labeled as such. Switches affecting heat, ventilation, and all systems shall be labeled.

(c) The emergency power system shall have a minimum of twenty four (24) hours of either propane, gasoline or diesel fuel. The quantity shall be based on its expected or known connected load consumption during power interruptions. In addition, the HIV supportive living facility shall have a written contract with an area fuel distributor which guarantees first priority service for re-fills during power interruptions.

(d) The emergency power system (generator) shall be inspected weekly and exercised and under actual load and operating temperature conditions for at least thirty (30) minutes, once each month, and shall include automatic and manual transfer of equipment. The generator shall be exercised by trained facility staff who are familiar with the systems' operation. Instructions for the operation of the systems and the manual transfer of emergency power shall be maintained with the facility's disaster preparedness plan and shall be separately identified in the plan. Records shall be maintained for all weekly inspections and monthly tests and be kept on file for a minimum of three (3) years.

(2) Physical Facility and Community Emergency Plans.

(a) Physical Facility (Internal Situations).

1. Every HIV supportive living facility shall have a current internal emergency plan, or plans, that provides for fires, bomb threats, severe weather, utility service failures, plus any local high risk situations such as floods, earthquakes, toxic fumes and chemical spills. The plan should consider the probability of the types of disasters which might occur, both natural and "man-made".

2. The plan(s) must include provisions for the relocation of persons within the building and/or either partial or full building evacuation. Plans that provide for the relocation of residents to other health care facilities must have written agreements for emergency transfers. The agreements may be mutual, i.e. providing for transfers either way.

(Rule 1200-08-28-.14, continued)

1. All HIV supportive living facilities shall establish and maintain communications with the county Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The facility shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

2. Each HIV supportive living facility must rehearse both the Physical Facility and Community Emergency plan as required in these regulations, even if the local Emergency Management Agency is unable to participate.

3. A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed July 27, 2000; effective October 10, 2000. Amendment filed December 15, 2005; effective February 28, 2006.*

1200-08-28-.15 APPENDIX I

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

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

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(Rule 1200-08-28-.15, continued)

A COPY OF THIS 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) (Allow Natural Death)** 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 & NUTRITION.** Oral fluids & 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 Signature** (Mandatory) Date	**Physician Phone Number**

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-28-.15, continued)

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

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

~~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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-28-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____
Section D *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/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date NP/CNS/PA (Signature at Discharge)	MD/NP/CNS/PA Phone Number:

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-28-.15, continued)

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-28-.15, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

(Rule 1200-08-28-.15, continued)

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-28-.15, continued)

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

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-28-.15, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
THE TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-29
STANDARDS FOR HOME CARE ORGANIZATIONS
PROVIDING HOME MEDICAL EQUIPMENT

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1200-08-29-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~Administrator. A person who:

(a) Is a licensed physician with at least one (1) year of supervisory or administrative experience in home health care, hospice care or related health programs; or

(b) Is a registered nurse with at least one (1) year of supervisory or administrative experience in home health care, hospice care or related health programs; or

(c) Has training and experience in health service administration and at least one (1) year of supervisory or administrative experience in home health care, hospice care or related health programs.

(3) ~~(2)~~Advance Directive. A written statement such as a living will, a durable power of attorney for health care or a do not resuscitate order relating to the provision of health care when the individual is incapacitated.

(4) ~~(3)~~Agency. A Home Care Organization providing home medical equipment.

(5) ~~(4)~~Assistive Technology Practitioner (ATP). Service providers primarily involved in evaluating the consumer's needs and training in the use of a prescribed wheeled mobility device.

(6) ~~(5)~~Assistive Technology Supplier (ATS). Service providers involved in the sale and service of commercially available wheeled mobility devices.

(7) ~~(6)~~Board. The Tennessee Board for Licensing Health Care Facilities.

(8) ~~(7)~~Cardiopulmonary Resuscitation (CPR). The administering of any means or device to support cardiopulmonary functions in a patient, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilations or respirations, defibrillation, the administration of drugs and/or chemical agents

(Rule 1200-08-29-.01, continued)

intended to restore cardiac and/or respiratory functions in a patient where cardiac or respiratory arrest has occurred or is believed to be imminent.

(9) ~~(8)~~Clinical Note. A written and dated notation containing a patient assessment, responses to medications, treatments, services, any changes in condition and signed by a health team member who made contact with the patient.

(10) ~~(9)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(11) ~~(10)~~ Competent. For the purpose of this chapter only, a patient who has decision-making capacity.

(12) ~~(11)~~ Decision-making capacity. Decision-making capacity is shown by the fact that the person is able to understand the proposed procedure, its risks and benefits, and the available alternative procedures.

(13) ~~(12)~~ Department. The Tennessee Department of Health.

~~(13) Do Not Resuscitate (DNR) Order. An order entered by the patient's treating physician in the patient's medical record which states that in the event the patient 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) Do-Not-Resuscitate order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(15) ~~(14)~~ Evaluation. The determination and documentation of the physiological and functional factors that impact the selection of an appropriate seating and wheeled mobility device.

(16) ~~(15)~~ Hazardous Waste. Materials whose handling, use, storage and disposal are governed by local, state or federal regulations.

(17) ~~(16)~~ Health care decision. A decision made by an individual or the individual's health care decision-maker, regarding the individual's health care including but not limited to:

(a) the selection and discharge of health-care providers and institutions;

(b) approval or disapproval of diagnostic tests, surgical procedures, programs of administration of medication, and orders not to resuscitate;

(c) directions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care; and

(d) transfer to other health care facilities.

(18) ~~(17)~~ Health Care Decision-maker. In the case of an incompetent patient, or a patient who lacks decision-making capacity, the patient's health care decision-maker is one of the following: the patient's health care agent as specified in an advance directive, the patient's court-appointed legal guardian or conservator with health care decision-making authority, or the patient's surrogate as determined pursuant to Rule 1200-08-29-.13 or T.C.A. §33-3-220.

(19) ~~(18)~~ Home Care Organization. As defined by T.C.A. § 68-11-201, a "home care organization" provides home health services, home medical equipment services or hospice

(Rule 1200-08-29-.01, continued)

services to patients on an outpatient basis in either their regular or temporary place of residence.

(20) ~~(19)~~ Home Medical Equipment.

(a) Medical equipment intended for use by the consumer including, but not limited to the following:

1. A device, instrument, apparatus, machine, or other similar article whose label bears the statement: "Caution: Federal law requires dispensing by or on the order of a physician.";

2. Ambulating assistance equipment;

3. Mobility equipment;

4. Rehabilitation seating;

5. Oxygen care equipment and oxygen delivery systems;

6. Respiratory care equipment and respiratory disease management devices.

7. Rehabilitation environmental control equipment;

8. Ventilators;

9. Apnea monitors;

10. Diagnostic equipment;

11. Feeding pumps;

12. A bed prescribed by a physician to treat or alleviate a medical condition;

13. Transcutaneous electrical nerve stimulator;

14. Sequential compression devices; and

15. Neonatal home phototherapy devices.

(b) Home medical equipment does not include:

1. Medical equipment used or dispensed in the normal course of treating patients by hospitals and nursing facilities as defied in this part, other than medical equipment delivered or dispensed by a separate unit or subsidiary corporation of a hospital or nursing facility or agency that is in the business of delivering home medical equipment to an individual's residence;

2. Upper and lower extremity prosthetics and related orthotics;

3. Canes, crutches, walkers, and bathtub grab bars;

4. Medical equipment provided through a physician's office incident to a physician's service;

(Rule 1200-08-29-.01, continued)

5. Equipment provided by a pharmacist which is used to administer drugs or medicine that can be dispensed only by a pharmacist; or

6. Enteral and parenteral equipment provided by a pharmacist.

(21) ~~(20)~~ Home medical equipment provider. Any person who provides home medical equipment services.

(22) ~~(21)~~ Home medical equipment services. A service provided by any person who sells or rents home medical equipment for delivery to the consumer' place of residence in this state, regardless of the location of the home medical equipment provider.

(23) ~~(22)~~ Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

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

(25) ~~(24)~~ Lacks Decision-Making Capacity. Lacks Decision-Making Capacity means the factual demonstration by the attending physician and the medical director, or the attending physician and another physician that an individual is unable to understand:

(a) A proposed health care procedure(s), treatment(s), intervention(s), or interaction(s);

(b) The risks and benefits of such procedure(s), treatment(s), intervention(s) or interaction(s); and

(c) The risks and benefits of any available alternative(s) to the proposed procedure(s), treatment(s), intervention(s) or interaction(s).

(26) ~~(25)~~ Legal Conservator. Any person authorized to act for the patient pursuant to any provision of T.C.A. Title 34, Chapters 5 and 11 through 13.

(27) ~~(26)~~ Legal Guardian. Any person authorized to act for the resident pursuant to any provision of T.C.A. §§34-5-102(4) or 34-11-101, or any successor statute thereto.

(28) ~~(27)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(29) ~~(28)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(30) ~~(29)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(31) (30) Medical Record. Information that pertains to confinement or services rendered to patients, including one or more of the following:

(a) medical histories;

(b) records;

(c) reports;

(Rule 1200-08-29-.01, continued)

(d) clinical notes;

(e) summaries; or

(f) orders.

If the patient does not require any clinical services from the home medical equipment company, the medical record will consist of the physician order only.

(32) ~~(31)~~ Medical Futile Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the surrogate expresses the goals of the patient.

(33) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(34) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(35) ~~(32)~~ Patient. Includes but is not limited to any person who is suffering from an acute or chronic illness or injury or who is crippled, convalescent or infirm, or who is in need of obstetrical, surgical, medical, nursing or supervisory care.

~~(33) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(36) ~~(34)~~ Physician. A person currently licensed as such by the Tennessee Board of Medical Examiners or currently licensed by the Tennessee Board of Osteopathic Examination. For the purpose of this chapter only, a physician who is licensed to practice medicine or osteopathy in a state contiguous to Tennessee, who have previously provided treatment to the patient and has an ongoing physician-patient relationship with the patient for whom a referral is to be made, may refer a patient residing in this state to a home care organization providing hospice services duly licensed under this chapter. This shall not be construed as authorizing an unlicensed physician to practice medicine in violation of T.C.A. §§ 63-6-201 or 63-9-104.

(37) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(38) ~~(35)~~ Qualified Rehabilitation Professional. A health care professional with in the professional's scope of practice licensed under Title 63; or an individual who has

(Rule 1200-08-29-.01, continued)

appropriately obtained the designation of ATS or ATP, meeting all requirements thereof, as established by the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA).

(39) ~~(36)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(40) ~~(37)~~ Shall or Must. Compliance is mandatory.

(41) ~~(38)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these rules.

(42) ~~(39)~~ Surrogate. The patient's conservator, or if none, a competent adult most likely to know the wishes of the patient with respect to the possible withholding of resuscitative services or withdrawal of resuscitative services.

(43) ~~(40)~~ Wheeled Mobility Device. A wheelchair or wheelchair and seated positioning system prescribed by a physician and required for use by the patient for a period of six (6) months or more. The following Medicare wheelchairs base codes are exempt: K0001, K0002, K0003, K0004, K0006, and K0007 as long as the consumer weighs less than three hundred (300) pounds.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-226, and 68-11-303.* ***Administrative History:*** *Original rule filed August 24, 2000; effective November 7, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendment filed May 27, 2004; effective August 10, 2004. Amendment filed June 25, 2007; effective September 8, 2007. Amendment filed October 11, 2007; effective December 25, 2007. Amendments filed December 23, 2009; effective March 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-29-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation or any state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain in the State of Tennessee any Home Care Organization providing home medical equipment without having a license. A license shall be issued to the person or persons named and only for the premises listed in the application for licensure. The name of the agency shall not be changed without first notifying the Department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the agency.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the Department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the Department.

(Rule 1200-08-29-.02, continued)
2000. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed February 22, 2010; effective May 23, 2010.

1200-08-29-.03 DISCIPLINARY PROCEDURES.

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

(a) Violation of federal or state statutes;

(b) Violation of rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission of any illegal act by the agency;

(d) Conduct or practices found by the Board to be detrimental to the health, safety, or welfare of the patients of the agency; or

(e) Failure to renew the license.

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

(a) The degree of sanctions necessary to ensure immediate and continued compliance;

(b) The character and degree of impact of the violation on the health, safety and welfare of the patient in the agency.

(c) The conduct of the agency in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and

(d) Any prior violations by the agency of statutes, rules or orders of the Board.

(3) When an agency is found by the Department to have committed a violation of this chapter, the Department will issue to the agency a statement of deficiencies. Within ten (10) days of receipt of the statement of deficiencies the agency must return a plan of correction indicating the following:

(a) How the deficiency will be corrected; and

(b) The date upon which each deficiency will be corrected;

(4) 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. §§4-5-202, 4-5-204, 4-5-219, 4-5-312, 4-5-316, 4-5-317, 68-11-202, 68-11-204, and 68-11-206 through 68-11-209.* ***Administrative History:*** *Original rule filed August 24, 2000; effective November 7, 2000. Amendment filed March 1, 2007; effective May 15, 2007.*

1200-08-29-.04 ADMINISTRATION.

~~(1) Governing Body. The licensee shall assume full legal authority and responsibility for the operation of the agency. The governing body shall appoint a qualified manager, arrange for~~

(Rule 1200-08-29-.04, continued)

~~professional advice, adopt and periodically review written bylaws or an acceptable equivalent, and oversee the management and fiscal affairs of the agency. The name and address of each officer, director, and owner shall be disclosed. If the agency is a corporation, all ownership interests of five (5) percent or more (direct or indirect) shall also be disclosed.~~

(1) Governing Body. The licensee shall assume full legal authority and responsibility for the operation of the agency. The governing body shall appoint a qualified administrator, arrange for professional advice, adopt and periodically review written bylaws or an acceptable equivalent, and oversee the management and fiscal affairs of the agency. The name and address of each officer, director, and owner shall be disclosed. If the agency is a corporation, all ownership interests of five (5) percent or more (direct or indirect) shall also be disclosed.

~~(2) Manager. The manager shall organize and direct the agency's ongoing functions; maintain ongoing communication between and among the governing body, the professional personnel and the staff; employ qualified personnel, ensure adequate staff education and evaluation for all personnel involved in direct care of the patient; ensure the accuracy of public information materials and activities; and implement an effective accounting system. A person with sufficient experience and training shall be authorized in writing to assume temporary duty during the manager's short-term absence. Any change of managers shall be reported to the Department within fifteen (15) days.~~

(2) Administrator. The administrator shall organize and direct the agency's ongoing functions; maintain ongoing communication between and among the governing body, the professional personnel and the staff; employ qualified personnel, ensure adequate staff education and evaluation for all personnel involved in direct care of the patient; ensure the accuracy of public information materials and activities; and implement an effective accounting system. A person with sufficient experience and training shall be authorized in writing to assume temporary duty during the administrator's short-term absence. Any change of administrators shall be reported to the Department within fifteen (15) days.

~~(3) Organization Structure. The agency's structure is such that responsibility and accountability for the program are clearly defined. An organizational chart (A) shows the relationship of the manager to the governing body; (B) clearly identifies lines of supervision; and (C) accurately defines the chain of command for in-home personnel.~~

(3) An administrator shall serve no more than one (1) licensed home care organization unless that home care organization provides other categories of home care organization services under the same ownership and at the same location.

(4) Organization Structure. The agency's structure is such that responsibility and accountability for the program are clearly defined. An organizational chart (A) shows the relationship of the administrator to the governing body; (B) clearly identifies lines of supervision; and (C) accurately defines the chain of command for in-home personnel.

(5)~~(4)~~ Accreditation. Any home medical equipment provider accredited by the Joint Commission on Accreditation of Health Care Organizations, Community Health Accreditation Program or other approved accrediting bodies may submit documents evidencing current accreditation and shall be presumed to comply with the requirements of the Board. Licensing of a home medical equipment provider which has been accredited by the Joint Commission on Accreditation of Health Care Organizations, Community Health Accreditation Program or other approved accrediting bodies shall become effective upon written notification from the

(Rule 1200-08-29-.04, continued)

Board's staff that the accreditation meets the standards set out in the rules and regulations promulgated pursuant to T.C.A. §§ 68-11-201, et seq.

(6)~~(5)~~ Personnel. Employees shall be qualified for the positions they hold and meet the education, training, and experience requirements defined by the agency.

(a) All employees shall receive and participate in an orientation program prior to assuming patient care responsibilities. The agency's written orientation plan shall outline topics to be covered; attendance requirements; method to verify topics discussed; a description of the orientation process; and the orientation plan shall include, but is not limited to:

1. Review of the individual's job description and duties to be performed;

2. Organizational chart;

3. Supervision;

4. Recordkeeping and reporting;

5. Confidentiality;

6. Patient's rights and responsibilities;

7. Pertinent personnel policies; and

8. Skills validation, as applicable.

(b) The agency shall maintain a personnel file for each employee which contains the following information:

1. A completed application;

2. References;

3. Work experience;

4. Educational preparation;

5. Job description which lists the minimum education, training, and experience requirement; job responsibilities; and title of immediate supervisor;

6. Annual performance appraisal or individual evaluations on specific job descriptions which include demonstrated current competency and proof that performance appraisal results were shared with employee;

7. Prior training;

8. Proof of orientation; and

9. Evidence of current license, if applicable.

(c) Medical equipment delivery technicians who deliver and install respiratory equipment shall be determined to be competent by their employer prior to independently delivering and setting up the respiratory equipment in a patient's home. The home medical

(Rule 1200-08-29-.04, continued)

equipment supplier must maintain documentation to demonstrate that competency requirements are met. Standard competencies will include at a minimum the following:

1. Role responsibilities;
2. Cylinders;
3. Pressure regulators/Flow controllers;
4. Home liquid oxygen systems;
5. Oxygen concentrators;
6. Oxygen analyzers;
7. Humidifiers;
8. Low flow nasal cannula; and
9. Small volume medication nebulizers with air compressors.

(d) Medical equipment delivery technicians shall be determined by their employer to be competent in their understanding of which acts they may and may not perform.

(e) The Board may in its discretion, after consultation with the Tennessee Association for Home Care and the Tennessee Society for Respiratory Care, encourage the use of certain competency documents developed by these two organizations to ensure compliance with the provisions of (c) and (d).

(7)~~(6)~~ All health care facilities licensed pursuant to T.C.A. §§ 68-11-201, et seq. shall post the following in the main public entrance:

(a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;

(b) 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 concerning abuse, neglect and exploitation; and

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

Postings of (a) and (b) shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

(8)~~(7)~~ "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.

(9)~~(8)~~ The facility shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.

(Rule 1200-08-29-.04, continued)
Authority: *T.C.A. §§4-5-202, 4-5-204, 39-17-1803, 39-17-1805, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-1-222, 68-11-226, 68-11-268 and 71-6-121.* ***Administrative History:*** *Original rule filed August 24, 2000; effective November 7, 2000. Amendment filed April 20, 2006; effective July 4, 2006. Amendment filed June 25, 2007; effective September 8, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed February 22, 2010; effective May 23, 2010.*

1200-08-29-.05 ADMISSIONS, DISCHARGE AND TRANSFERS.

(1) The agency only admits patients whose needs can be met by the services the agency provides.

(a) There shall be written policies and procedures and an organizational process that indicates employees with the necessary skill and training are assigned to assess the level and type of care/service required by patients referred to the agency, and to determine whether the patient is eligible for admission based on the agency's criteria and availability of services to meet the patient's needs. There shall also be a reasonable time frame in which the patient's eligibility for admission is assessed which takes into account the patient's service needs.

(b) There shall be a written policy that addresses the agency's compliance with federal, state, and local anti-discrimination laws in the selection of patients.

(2) Patients shall be transferred or referred to other organizations/agencies in the community when service needs are identified by staff or patients which cannot be met by the agency.

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

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed August 24, 2000; effective November 7, 2000. Amendment filed June 25, 2007; effective September 8, 2007.*

1200-08-29-.06 BASIC AGENCY FUNCTIONS.

(1) Patient Instruction. The agency shall have written guidelines relating to patient and/or caregiver training and education that includes at a minimum:

(a) Financial responsibilities;

(b) Equipment use and maintenance;

(c) Patient rights and responsibilities;

(d) Emergency/back-up systems and trouble shooting procedures, if applicable; and

(e) How to contact the agency during regular business hours and after hours, if applicable.

(2) Infection Control. The agency shall have written policies and procedures relating to infection control. Employees shall consistently follow infection control procedures in the provision of care to the agency's patients. The written policies and procedures at a minimum must address standards and education of staff about:

RULES
OF
THE TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-8-30
STANDARDS FOR PEDIATRIC EMERGENCY CARE FACILITIES

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1200-8-30-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ ACLS. Advance Cardiac Life Support.

(3) ~~(2)~~ APLS. Advanced Pediatric Life Support.

(4) ~~(3)~~ Basic Pediatric Emergency Facility. The facility shall be capable of identifying those pediatric patients who are critically ill or injured, stabilizing pediatric patients, including the management of airway, breathing and circulation, and providing an appropriate transfer to a definitive care facility.

(5) ~~(4)~~ Board. Board for Licensing Health Care Facilities.

(6) ~~(5)~~ Comprehensive Regional Pediatric Center (CRPC). The facility shall be capable of providing comprehensive specialized pediatric medical and surgical care to all acutely ill and injured children. The center shall be responsible for serving as a regional referral center for the specialized care of pediatric patients or in special circumstances provide safe and timely transfer of children to other resources for specialized care.

(7) ~~(6)~~ CPR. Cardiopulmonary Resuscitation.

(8) Do-Not-Resuscitate order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(9) ~~(7)~~ E. Essential.

(10) ~~(8)~~ ECG. Electrocardiogram.

(11) ~~(9)~~ ED. Emergency Department.

(12) ~~(10)~~ EED. Essential in emergency department.

(13) ~~(11)~~ EED&EPI. Essential in emergency department and pediatric intensive care unit.

(14) ~~(12)~~ EH. Essential in hospital.

(15) ~~(13)~~ EMS. Emergency medical service.

(16) ~~(14)~~ EMSC. Emergency medical service for children.

(Rule 1200-8-30-.01, continued)

(17) ~~(15)~~ ENPC. Emergency Nursing Pediatric Course.

(18) ~~(16)~~ EP. Promptly available.

(19) ~~(17)~~ EPI. Essential in pediatric intensive care unit only.

(20) ~~(18)~~ ES. Essential if service not provided at hospital.

(21) ~~(19)~~ General Pediatric Emergency Facility. The facility shall have a defined separate pediatric inpatient service and a department of pediatrics within the medical staff structure. The facility may accept appropriate referrals of pediatric patients from Basic and Primary Pediatric Emergency Facilities as part of prearranged triage, transfer and transport agreements.

(22) ~~(20)~~ ICP. Intracranial Pressure.

(23) ~~(21)~~ IM. Intramuscular.

(24) ~~(22)~~ IV. Intravenous.

(25) Misappropriation of patient/resident property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(26) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(27) ~~(23)~~ OR. Operating Room.

(28) ~~(24)~~ PA. Physician's Assistant.

(29) ~~(25)~~ PALS. Pediatric Advanced Life Support.

(30) ~~(26)~~ Pediatric Emergency Care Facilities. Hospital facilities that provide emergency services and are classified according to their abilities to provide such services. The classifications are: 1) Basic Pediatric Emergency Facility, 2) Primary Pediatric Emergency Facility, 3) General Pediatric Emergency Facility, and 4) Comprehensive Regional Pediatric Center.

(31) Physician. A person currently licensed as such by the Tennessee Board of Medical Examiners or currently licensed by the Tennessee Board of Osteopathic Examination.

(32) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(33) ~~(27)~~ PICU/PI. Pediatric Intensive Care Unit.

(34) ~~(28)~~ Primary Pediatric Emergency Facility. The facility shall provide the same services as a Basic Pediatric Emergency Facility and shall have limited capabilities for the management of

(Rule 1200-8-30-.01, continued)

minor pediatric inpatient problems and may accept appropriate transfers of pediatric patients when there is no facility with more comprehensive capabilities available within a region.

(35) ~~(29)~~ QA. Quality Assurance.

(36) ~~(30)~~ QI. Quality Intervention.

(37) ~~(31)~~ RN. Registered Nurse.

(38) ~~(32)~~ RRT. Registered Respiratory Therapist.

(39) ~~(33)~~ SE. Strongly encouraged if such services are not available within a reasonable distance.

(40) ~~(34)~~ Trauma. A physical injury or wound caused by external force or violence.

(41) ~~(35)~~ Trauma Registry. A central registry compiled of injury incidence information supplied by designated trauma centers and Comprehensive Regional Pediatric Centers (CRPC's) for the purposes of allowing the Board to analyze data and conduct special studies regarding the causes and consequences of traumatic injury.

(42) ~~(36)~~ TRACS. Trauma Registry of American College of Surgeons.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-209, and 68-11-251.* ***Administrative History:*** *Original rule filed November 30, 1999; effective February 6, 2000. Amendment filed October 15, 2002; effective December 29, 2002. Amendment filed August 16, 2006; effective October 30, 2006. Amendment filed December 4, 2007; effective February 17, 2008.*

(Rule 1200-8-30-Table 1, continued)

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-209, and 68-11-251.* ***Administrative History:*** *Original rule filed November 30, 1999; effective February 6, 2000. Amendment filed October 15, 2002; effective December 29, 2002. Amendment filed December 4, 2007; effective February 17, 2008.*

Table 1 (Parts 1-7) provides a summary for emergency care facilities for each level of pediatric health care. Personnel, equipment, and issues that are essential at each designation or level are described as either being essential in the emergency department (EED), essential in the pediatric intensive care unit (EPI), essential within the hospital (EH), or promptly available (EP). An optional but strongly encouraged category (SE) is used to describe personnel, activities or issues that may be essential to network a comprehensive regionalized EMS-EMSC system in rural areas. Although these are not generally required of a specific hospital, they are strongly encouraged if such services are not available within a reasonable distance.*

*Some services are usually available at a Comprehensive Regional Pediatric Center but, if not provided, then transfer agreements must be in place (ES). Other capabilities must be available in the pediatric intensive care units but should be promptly available to the emergency department and hospital (EPI and EP).

[1] All medical specialists should have pediatric expertise as evidenced by board certification, fellowship training, or demonstrated commitment and continuing medical education in their subspecialty area.

[2] Or substituted by a current signed transfer agreement with an institution with cardiothoracic surgery and cardiopulmonary bypass capability.

[3] Forensic pathologist must be available either as part of the hospital staff or on a consulting basis.

[4] Resuscitative medications may be exempted if the hospital can demonstrate PALS recommendation changes, manufacturer recalls or shortages, or Food and Drug Administration requirement issues.

TABLE 1. PEDIATRIC EMERGENCY CARE FACILITIES				
Part 1/7	FACILITY DESIGNATION/LEVEL			
1. PERSONNEL	CRPC	General	Primary	Basic
Physician with pediatric emergency care experience	EED	EED	EED	EP
RN with pediatric training	EED & EPI	EED	EED	EED
Respiratory therapist	EH	EH	EH	
Trauma coordinator	E			
Nurse educator	E	E		
Trauma team *	E	SE	SE	
Specialist consultants * (Available in less than 1 hour) [1]				
Pediatrician	EP	EP	EP	SE
Radiologist	EP	EP	EP	SE
Anesthesiologist *	EP	EP	EP	SE
Cardiologist	EP			
Critical Care Physician	EP			
Nephrologist	EP			
Hematologist/oncologist	EP			
Endocrinologist	EP			
Gastroenterologist	EP			
Neurologist	EP			
Pulmonologist	EP			
Psychiatrist/Psychologist	EP			
Infectious Disease Physician	EP			
Surgical specialists* (Available in less than 1 hour)				

(Rule 1200-8-30-Table 1, continued)

General surgeon		EP	EP	SE
Pediatric surgeon *	EP	SE		
Neurosurgeon	EP	SE		
Orthopedic surgeon	EP	SE	SE	
Otolaryngologist	EP			
Urologist	EP			
Plastic surgeon	EP			
Oral/maxillofacial surgeon	EP			
Gynecologist	EP			
Microvascular surgeon	EP			
Hand surgeon	EP			
Ophthalmologist	EP			
Cardiac surgeon	EP			
Pathologist	EP			
Pediondontist	EP			
Physical Medicine/Rehabilitation physician	E			
Trauma Rehabilitation Program				
Physical Therapy	E			
Occupational Therapy	E			
Speech Therapy	SE			
Special Education	E			

TABLE 1. PEDIATRIC EMERGENCY CARE FACILITIES				
Part 2/7	FACILITY DESIGNATION/LEVEL			
2. EQUIPMENT	CRPC	General	Primary	Basic
EMS communication equipment*	E	E	E	E
Organized emergency cart*	EED&EPI	EED	EED	EED
Printed drug doses/tape	EED&EPI	EED	EED	EED
Monitoring devices				
ECG monitor/defibrillator with pediatric paddles or pads 0-400 joules and hard copy capabilities	EED&EPI	EED	EH	EH
Pulse oximeter (adult/pediatric probes)	EED&EPI	EED	EH	EH
Blood pressure cuffs (infant, child, adult, thigh)	EED&EPI	EED	EED	EED
Rectal thermometer probe (28 deg. – 42 deg. C)	EED&EPI	EED	EH	EH
Otoscope, ophthalmoscope, stethoscope	EED&EPI	EED	EED	EED
Cardiopulmonary monitor with pediatric and hard copy capability, visible/audible alarms, routine testing and maintenance	EED&EPI	EED	EED	EH
Doppler and noninvasive blood pressure monitoring (infant, child, adult)	EED&EPI	EED	EH	
End tidal CO2 detector	EED	EED	EED	EED
End tidal CO2 monitor	EED&EPI	EH	SE	
Monitor for central venous pressure, arterial lines, temperature	EH&EPI	EH	SE	
Monitor for pulmonary arterial pressure and intracranial pressure	EPI			
Transportable monitor	EED&EPI	EED	EH	EH
Airway control/ventilation equipment				
Bag-valve-mask device: pediatric (450 mL), and adult (1000 mL) with oxygen reservoir and without pop-off valve. Infant, child, and adult masks	EED&EPI	EED	EED	EED
Oxygen delivery device with flow meter	EED&EPI	EED	EED	EED
Clear oxygen masks, standard and non-rebreathing (neonatal to adult size)	EED&EPI	EED	EED	EED
Nasal cannula (infant, child, adult)	EED&EPI	EED	EED	EED
PEEP valve	EED&EPI	EED		
Suction devices-catheters 6-14 fr, yankauer-tip/suction equipment	EED&EPI	EED	EED	EED

(Rule 1200-8-30-Table 1, continued)

Nasal airways (infant, child, adult)	EED&EPI	EED	EED	EED
Nasogastric tubes (sizes 6-16 fr)	EED&EPI	EED	EED	EED
Laryngoscope handle and blades:				
- curved 2,3	EED&EPI	EED	EED	EED
- straight or Miller 0,1,1-1/2, 2,3	EED&EPI	EED	EED	EED
Endotracheal tubes:				
- uncuffed (2.5-5.5)	EED&EPI	EED	EED	EED
- cuffed (6.0-9.0) [all pediatric sizes EPI]	EED&EPI	EED	EED	EED
Stylets for endotracheal tubes (pediatric, adult)	EED&EPI	EED	EED	EED
Lubricant, water soluble	EED	EED	EED	EED
Magill forceps (pediatric, adult)	EED	EED	EED	EED
Spirometers, chest physiotherapy and suctioning equipment	EPI			
Continuous oxygen analyzers with alarms	EPI			
Inhalation therapy equipment	EPI			
Tracheostomy tubes (~~shiley~~ sizes 0-6)	EED	EH	EH	
Oxygen blender	EED&EPI	EED	EED	EED
Pediatric endoscopes and bronchoscopes available	EH	EH		
Respired gas humidifiers and bronchoscopes available	EPI			
Pediatric ventilators	EPI	EH		
Difficult airway kit	EED&EPI	EED	SE	SE
Vascular access supplies				
Arm boards (infant, child, and adult sizes)	EED&EPI	EED	EED	EED
Butterflies (19-25 gauge)	EED&EPI	EED	EED	EED
Catheters for intravenous lines (16-24 gauge)	EED&EPI	EED	EED	EED
Needles (18-27 gauge)	EED&EPI	EED	EED	EED
Intraosseous needles	EED&EPI	EED	EED	EED
Umbilical vessel catheters (3,5 fr) and cannulation tray	EED	EED	EH	EH
IV administration sets and extension tubing with calibrated chambers	EED&EPI	EED	EED	EED
Extension tubing, stopcocks, T-connectors	EED&EPI	EED	EED	EED
Infusion device able to regulate rate and volume of infusate	EED&EPI	EED	EED	EED
Isotonic balanced salt solution and D[5[0.5 normal saline	EED	EED	EED	EED
Central venous access utilizing Seldinger technique (4-7 fr)	EED&EPI	EED	EED	
IV fluid/blood warmer	EED&EPI	EED	EH	
Blood gas kit	EED	EED	EH	
Rapid infusion pumps	EED&EPI	EH		

TABLE 1. PEDIATRIC EMERGENCYCARE FACILITIES				
Part 3/7	FACILITY DESIGNATION/LEVEL			
2. EQUIPMENT AND SUPPLIES (Cont.)	CRPC	General	Primary	Basic
Specialized pediatric trays				
Lumbar puncture	EED&EPI	EED	EED	EH
Urinary catheterization: Foley 6-14 fr	EED&EPI	EED	EED	EED
Venous cutdown	EED&EPI	EED	EH	EH
Thoracostomy tray with chest tube sizes 10-28 fr	EED&EPI	EED	SE	
Peritoneal lavage tray	EED&EPI	EED	SE	
Needle cricothyrotomy set	EED&EPI	EED	EED	
Intracranial pressure monitor tray	EED&EPI	SE		
Obstetrical Kit	EED	EED	EED	EED
Oral Airway (1 in 0-5)	EED&EPI	EED	EED	EED
Tracheostomy tray	EED&EPI	EED	SE	
Fracture management devices				
Cervical immobilization equipment suitable for ped. patients	EED	EED	EED	EED
Spine board (child/adult)	EED	EED	EED	EED
Extremity splints	EED	EED	EED	EED
Femur splint; child, adult	EED	EED	EED	EED

(Rule 1200-8-30-Table 1, continued)

Activated charcoal	EED	EED	EED	EH
Beta-agonist for inhalation	EED&EPI	EED	EED	EH
Bretylium	EED&EPI	EED	EH	EH
Calcium chloride	EED&EPI	EED	EH	EH
Corticosteroids (dexamethasone, methylprednisolone)	EED	EED	EED	EH
Cyanide kit and pediatric doses	EED			
Dextrose-25% and 50%	EED&EPI	EED	EED	EH
Digitalis antibody	EH	EH	EH	
Diphenhydramine	EED	EED	EED	EH
Epinephrine (1:1000, 1:10,000)	EED&EPI	EED	EED	EH
Factor VIII, IX concentrates, DDAVP	EH	EH	EH	
Flumazenil	EH	EH	EH	EH
Furosemide	EED&EPI	EED	EED	EH
Glucagon	EED	EED	EED	
Insulin	EH	EH	EH	
Ipecac	EED	EED	EED	EH
Kayexalate	EH	EH	EH	
Ketamine	EED	EH	ED	
Magnesium sulfate	EED&EPI	EED	EH	
Mannitol-20%	EED&EPI	EH	EH	
Methylene blue	EH	EH	EH	EH
N-acetyl cysteine	EH	EH	EH	
Naloxone	EED	EED	EED	EH
Potassium chloride	EED	EED	EED	
Prostaglandin	EH	EH	EH	
Sodium bicarbonate 4.2%, 7.5% and 8.4%	EED&EPI	EED	EED	EH
Succinylcholine	EED	EED	EH	
Whole bowel irrigation solution	EH	EH	EH	

TABLE 1. PEDIATRIC EMERGENCY CARE FACILITIES				
Part 4/7	FACILITY DESIGNATION/LEVEL			
2. EQUIPMENT AND SUPPLIES (Cont.)	CRPC	General	Primary	Basic
MEDICATION CLASSES				
Analgesics	EED	EED	EH	EH
Antibiotics	EED	EED	EED	EH
Anticonvulsants	EED&EPI	EED	EED	EH
Antihypertensive agents	EED	EED	EH	EH
Antipyretics	EED	EED	EED	EH
PALS and ACLS medications	EED&EPI	EED	EED	EH
Chelating agents for heavy metal poisonings	EH			
Nondepolarizing neuromuscular blocking agents	EED	EED	EED	
Rapid sequence intubation medications	EED&EPI	EED	EH	
Sedatives and antianxiety medications	EED&EPI	EED	EH	EH
MISCELLANEOUS				
Resuscitation board	EED&EPI	EED	EED	EED
Infant scale	EED&EPI	EED	EED	EED
Heating source (for infant warming)	EED&EPI	EED	EED	EED
Precalculated drug sheets or length-base tape	EED	EED	EED	EED
Pediatric restraint equipment (to use for painful or difficult procedures)	EED	EED	EED	
Portable radiography	EED&EPI	EH	EH	
Slit lamp	EH	EH	EH	
Infant incubators	EH			

(Rule 1200-8-30-Table 1, continued)

Bilirubin lights	EH			
Pacemaker capability	EH	EH		
Thermal control for patient and/or resuscitation room	EED	EED	EED	
3. FACILITIES				
Emergency Department				
Two or more areas with capacity and equipment to resuscitate medical/surgical/trauma pediatric patients	E			
One or more areas as above		E		
Separate Pediatric designated site	E			
Access to helicopter landing site	E	E	E	E
Hospital support services				
Pediatric inpatient care	E	E		
Pediatric intensive care unit	E			
Child abuse team	E	E		
Child life support	EH			
Operating Room				
Operating room staff	EP	EP	SE	
One RN physically present in OR	E	EP		
Second operating room available and staffed within 30 minutes	E			
Thermal control equipment	E	E		
X-ray capability, including C-arm	E	E		
Endoscopes, all varieties	E			
Craniotomy equipment, including ICP monitoring equipment	E			
Invasive and noninvasive monitoring equipment	E	E		
Pediatric anesthesia and ventilation equipment	E	E		
Pediatric airway control equipment	E	E		
Defibrillator, monitor, including internal and external paddles	E	E		
Laparotomy tray	E	E		
Thoracotomy tray and chest retractors of appropriate size	E			
Synthetic grafts of all sizes	E			
Spinal and neck immobilization equipment	E			
Fracture table with pediatric capability	E			
Auto-transfusion with pediatric capability	E			
Pediatric drug dosage chart	E	E		

TABLE 1. PEDIATRIC EMERGENCY CARE FACILITIES				
Part 5/7	FACILITY DESIGNATION/ LEVEL			
3. FACILITIES (Cont.)	CRPC	General	Primary	Basic
OPERATING ROOM (CONT.)				
Tracheostomy tubes, neonatal through adolescent	E	E		
Anesthesia and surgical suite promptly available	EP	EP	SE	
PEDIATRIC INTENSIVE CARE UNIT				
Distinct, controlled access unit	E			
Proximity to elevators	E			
MD on-call room	E			
Waiting room and separate family counseling room	E			
Patients' personal effects storage and privacy provision	E			
Patient isolation capacity and isolation cart	E			
Medication station with drug refrigerator and locked cabinet	E			
Emergency equipment storage	E			
Separate clean and soiled utility rooms	E			
Nourishment station	E			
Separate staff and patient toilets	E			
Clocks, radios, and televisions	E			

(Rule 1200-8-30-Table 1, continued)

Two oxygen, two vacuum, and > 2 compressed air outlets/bed	E			
Computerized lab reporting	E			
Easy, rapid access to head of beds and cribs	E			
Pressure monitoring capability, with 4 simultaneous pressures	E			
Electric patient isolation capability	E			
Recovery Room				
RNs and other essential personnel on call 24 hrs/ day	E	E	E*	
Staff competent in the post-anesthesia care of the pediatric pt.	E	E	E*	
Airway equipment	E	E	E*	
Pressure monitoring capability	E	E	E*	
Thermal control equipment	E	E	E*	
Radiant warmer	E	E	E*	
Blood warmer	E	E	E*	
Resuscitation cart	E	E	E*	
Immediate access to sterile surgical supplies for emergency	E		E*	
Pediatric drug dosage chart	E	E	E	
E* If surgery performed on pediatric patients				
Laboratory services				
Hematology	E	E	E	E
Chemistry	E	E	E	E
Microbiology	E	E	E	SE
Microcapabilities	E	E		
Blood bank	E	E	SE	
Drug levels/toxicology	E	SE	SE	
Refractometer	EPI			
Blood gases	E	E	E	
Radiology Service				
Routine services 24 hours per day	EH	EH	E	E
Computed tomography scan 24 hours per day	E	E	SE	
Ultrasound 24 hours per day	E	E	SE	
Magnetic Resonance Imaging Availability	E	E		
Nuclear medicine	E	SE		
Fluoroscopy/contrast studies 24 hours per day	E	E	SE	
Angiography 24 hours per day	E	E	SE	

TABLE 1. PEDIATRIC EMERGENCY CARE FACILITIES				
Part 6/7	FACILITY DESIGNATION/LEVEL			
3. FACILITIES (Cont.)	CRPC	General	Primary	Basic
OTHER				
Pediatric Echocardiography	E			
Pediatric Cardiac Catheterization	E			
Electroencephalography	E			
Access to:				
Regional poison control center	E	E	E	E
Hemodialysis capability/transfer agreement	E	E	E	
Rehabilitation medicine/transfer agreement	E	E	SE	
Acute spinal cord injury management capability/transfer agreement	E	E	SE	
Hyperbaric oxygen chamber availability/transfer agreement when appropriate	E			
4. Access, Triage, Transfer, and Transport				
Support of medical control*	E	E	SE	SE
Accept call-ahead ambulance information	E	E	E	E

(Rule 1200-8-30-Table 1, continued)

Transfer agreements for: In-patient pediatric care			E	E
ICU pediatric care		E	E	E
Major trauma care	ES	E	E	E
Burn care	ES	E	E	E
Hemodialysis	ES	E	E	E
Spinal injury care	ES	E	E	E
Rehabilitation care	ES	E	E	E
Accept all critically ill patients from lower-level hospitals within a region	E	SE		
Access to transport services appropriate for pediatrics	E	E	E	E
Provide 24-hour consultation to lower-level facilities	E			
Consultation agreements with CRPC		E	E	E
5. Education, Training, Research, and Quality Assessment and Improvement*				
Education and Training				
Public education, injury prevention	E	E	SE	SE
Assure staff training in resuscitation and stabilization	E	E	E	E
Assist with pre-hospital education	E	SE	SE	SE
CPR certification for PICU nurses and respiratory therapists	E			
CPR certification for ED nurses and RRTs	E	E	E	E
Resuscitation practice sessions	E	SE	SE	SE
Ongoing CME for RNs and RRTs from the PICU	E			
Ongoing CME for RNs and RRTs from the ED	E	E	E	E
Network educational resources for training all levels of health professionals	E	SE		
RESEARCH				
Support state EMSC and CRPC research efforts and data collection	E	E	E	E
Participate in and/or maintain trauma registry	E	E	SE	SE
Participate in regional pediatric critical care education	E			

TABLE 1. PEDIATRIC EMERGENCYCARE FACILITIES				
Part 7/7	FACILITY DESIGNATION/LEVEL			
5. Education, Training, Research, and Quality Assessment and Improvement* (Cont.)	CRPC	General	Primary	Basic
QUALITY ASSESSMENT AND IMPROVEMENT				
Structured QA/QI program with indicators and periodic review	E	E	E	E
Participate in regional quality review by CRPC and/or local EMS authority	E	E	E	E
6. ADMINISTRATIVE SUPPORT AND HOSPITAL COMMITMENT				
Make available clinical resources for training pre-hospital personnel	E	SE	SE	
Assure properly trained ED staff	E	E	E	E
Assure availability of all necessary equipment/supplies/protocols/agreements/policies	E	E	E	E
Provide emergency care and stabilization for all pediatric patients	E	E	E	E
Support networking education/training for health care professionals	E	E	E	E
Assure appropriate medical control and input to ED management and pediatric care	E	SE	SE	SE
Participate in network pediatric emergency care	E	E	E	E
Assure conformity with building and federal codes for PICU	E			
Assure transport services and agreements are available	E	E	E	E
Assure resources available for data collection	E	E	E	E

(Rule 1200-8-30-Table 1, continued)

Assure availability of: Social services	E	E	E	
Child abuse support services	EP	EP	EP	
Child life support	E			
On-line pre-hospital control	E	SE	SE	SE
Respiratory care	EED	EH	EH	SE
Pediatric Critical Care Committee	E			
Pediatric Trauma Committee	E			
Child development services	E			

RULES
OF
DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-32
STANDARDS FOR END STAGE RENAL DIALYSIS CLINICS

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1200-08-32-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ Adult. An individual who has capacity and is at least 18 years of age.

(3) ~~(2)~~ Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(4) ~~(3)~~ Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(5) ~~(4)~~ Anticoagulant. A medication or medical technique to prevent or slow down coagulation and clotting.

(6) ~~(5)~~ Anticoagulation. The process of inhibiting the blood clotting mechanism by the administration of certain drugs.

(7) ~~(6)~~ Artificial Kidney. An apparatus which removes metabolic wastes or other poisons from the body when the natural kidneys are not functioning properly. This apparatus may be referred to as a kidney dialyzer.

(8) ~~(7)~~ Board. The Tennessee Board for Licensing Health Care Facilities.

(9) ~~(8)~~ Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient to make health care decisions while having the capacity to do so. A patient shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient shall have the burden of proving lack of capacity.

(10) ~~(9)~~ Cardiopulmonary Resuscitation (CPR). The administering of any means or device to restore or support cardiopulmonary functions in a patient, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilations or respirations, defibrillation, the administration of drugs

(Rule 1200-08-32-.01, continued)

and/or chemical agents intended to restore cardiac and/or respiratory functions in a patient where cardiac or respiratory arrest has occurred or is believed to be imminent.

(11) ~~(10)~~ Chronic Hemodialysis. Hemodialysis over a long period of time, usually to the extent of the patient's life or organ transplant.

(12) ~~(11)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(13) ~~(12)~~ Competent. A patient who has capacity.

(14) ~~(13)~~ Department. The Tennessee Department of Health.

(15) ~~(14)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(16) ~~(15)~~ Dialysis. A process by which substances are removed from a patient's body by diffusion and convection from one fluid compartment to another across a semipermeable membrane. The two types of dialysis that are currently in common use are hemodialysis and peritoneal dialysis.

(17) ~~(16)~~ Dialysis technician. An individual who is not a registered nurse or physician and who provides dialysis care under the direct supervision of a registered nurse or physician. If unlicensed, this individual may also be known as a patient care technician, dialysis assistant or dialysis technician.

(18) ~~(17)~~ Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners or exempted from licensure by T.C.A. §63-25-104 and having at least one (1) year of experience in clinical nutrition.

~~(18) Do Not Resuscitate (DNR) Order. An order entered by the patient's treating physician in the patient's medical record which states that in the event the patient 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.~~

(19) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(20) ~~(19)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(21) ~~(20)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(22) ~~(21)~~ End-Stage Renal Disease (ESRD). That stage of renal impairment that is or appears irreversible and permanent, and requires a regular course of dialysis or kidney transplantation to maintain life.

(23) ~~(22)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(Rule 1200-08-32-.01, continued)

(24) ~~(23)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state or federal regulations.

(25) ~~(24)~~ Health Care. 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).

(26) ~~(25)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(27) ~~(26)~~ Health Care Decision-maker. In the case of a patient who lacks capacity, the patient's health care decision-maker is one of the following: the patient's health care agent as specified in an advance directive, the patient's court-appointed guardian or conservator with health care decision-making authority, the patient's surrogate as determined pursuant to Rule 1200-08-32-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(28) ~~(27)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(29) ~~(28)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(30) ~~(29)~~ Home dialysis. Dialysis performed by a trained patient on him or herself or by a trained designated caregiver on the patient at the patient's home with little or no professional assistance.

(31) ~~(30)~~ Home dialysis training. A training program that teaches dialysis patients and patient caregivers to perform home dialysis.

(32) ~~(31)~~ Hospital. Any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with the services of a physician or dentist, of one (1) or more nonrelated persons who may be suffering from deformity, injury or disease or from any other condition for which nursing, medical or surgical services would be appropriate for care, diagnosis or treatment.

(33) ~~(32)~~ Hospitalization. The reception and care of any person for a continuous period longer than twenty-four (24) hours, for the purpose of giving advice, diagnosis, nursing service or treatment bearing on the physical health of such person, and maternity care involving labor and delivery for any period of time.

(34) ~~(33)~~ Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(35) ~~(34)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(37) ~~(36)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(Rule 1200-08-32-.01, continued)

(38) ~~(37)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(39) ~~(38)~~ Life Threatening or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(40) ~~(39)~~ Medical Director. A physician who: (1) Is board eligible or board certified in nephrology, internal medicine or pediatrics by a professional board, and has at least 12 months of experience or training in the care of patients at ESRD facilities; or (2) During the 5-year period prior to September 1, 1976, served for at least 12 months as director of a dialysis or transplantation program; and worked within the field of kidney dialysis for at least 12 months in the past 5 years. However, in the areas where a physician who meets the definition in paragraph (1) or (2) of this definition is not available to direct a dialysis facility, another physician may direct the facility, subject to the approval of the Department.

(41) ~~(40)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(42) ~~(41)~~ Medical Record. Medical histories, records, reports, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, x-rays, radiology interpretations and other written, electronic, or graphic data prepared, kept, made or maintained in a facility that pertains to confinement or services rendered to patients.

(43) ~~(42)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or other medical or surgical treatments to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the patient's representative expresses the goals of the patient.

(44) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(45) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(46) ~~(43)~~ NFPA. The National Fire Protection Association.

(47) ~~(44)~~ Nurse Manager. A Registered Nurse who is employed full time in a renal dialysis clinic, is currently licensed as such by the Tennessee Board of Nursing, and (1) has at least 12 months of experience in clinical nursing, and an additional 6 months of experience in nursing care of the patient with permanent kidney failure or undergoing kidney transplantation, including training in and experience with the dialysis process; or (2) Has at least 18 months of experience in nursing care of the patient on maintenance dialysis, or in nursing care of the patient with a kidney transplant, including training in and experience with the dialysis process. If the Nurse Manager is in charge of self-care dialysis training, at least 3 months of the total required ESRD experience must be in training patients in self-care.

(48) ~~(45)~~ Nurse Practitioner/Clinical Nurse Specialist. A person currently licensed as a registered nurse by the Tennessee Board of Nursing and certified by the American Academy of Nurse

(Rule 1200-08-32-.01, continued)

Practitioners, the American Nurses Credentialing Center as a nurse practitioner or holds a certification as clinical nurse specialist from the Tennessee Board of Nursing.

(49) ~~(46)~~ Nursing Personnel. Licensed nurses and certified nurse aides, who provide nursing care.

(50) ~~(47)~~ On-Duty/On-Site. A staff person who is on the facility's premises and has the obligation to carry out any job responsibilities designated in his/her job description.

(51) ~~(48)~~ On-Site. A staff person who is on the facility's premises but is only required to be on duty during an emergency.

~~(49) Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(52) ~~(50)~~ Patient Care Plan. A written document prepared by the interdisciplinary team for a patient receiving end stage renal disease services.

(53) ~~(51)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(54) ~~(52)~~ Personally Informing. A communication by any effective means from the patient directly to a health care provider.

(55) (53) Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

~~(54) Physician's Assistant. A person who is currently licensed by the Tennessee Board of Medical Examiners and Committee on Physician Assistants and has obtained prescription writing authority pursuant to T.C.A. 63-19-107(2)(A).~~

(56) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(57) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

(Rule 1200-08-32-.01, continued)

3. Specify both 1 and 2.

(58) ~~(55)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(59) ~~(56)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(60) ~~(57)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(61) ~~(58)~~ Referring physician. The physician who refers the patient to the renal dialysis clinic for treatment.

(62) ~~(59)~~ Renal dialysis clinic. Any institution, facility, place or building devoted to the provision of renal dialysis on an outpatient basis to persons diagnosed with end stage renal disease.

(63) ~~(60)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(64) ~~(61)~~ Shall or Must. Compliance is mandatory.

(65) ~~(62)~~ Social Worker. A person who is licensed by the Tennessee Board of Social Worker Certification and Licensure, if applicable, and (1) Has completed a course of study with specialization in clinical practice at, and holds a masters degree from, a graduate school of social work accredited by the Council on Social Work Education; or (2) Has served for at least 2 years as a social worker, 1 year of which was in a dialysis unit or transplantation program and has established a consultative relationship with a social worker who qualifies in paragraph (1) of this definition.

(66) ~~(63)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(67) ~~(64)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(68) ~~(65)~~ Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(69) ~~(66)~~ Survey. An on-site examination by the Department to determine compliance with state and federal regulations.

(70) ~~(67)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

(71) ~~(68)~~ Treating Physician. The physician selected by or assigned to the patient and who has the primary responsibility for the treatment and care of the patient. Where more than one physician shares such responsibility, any such physician may be deemed to be the "treating physician."

(Rule 1200-08-32-.01, continued)

~~(69) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

(72) ~~(70)~~ Water Treatment. The process of treating water used for dialysis purposes in order to maintain a continuous water supply that meets AAMI (Association for the Advancement of Medical Instrumentation) standards.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed April 22, 2003; effective July 6, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed December 15, 2005; effective February 28, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed December 9, 2010 to have been effective March 9, 2011 was stayed for 28 days by the Government Operations Committee; new effective date March 29, 2011. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-32-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or any state, county or local governmental unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any renal dialysis clinic without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the renal dialysis clinic.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form provided by the department.

(b) Each initial and renewal application for licensure shall be submitted with the fee of one thousand eighty dollars ($1,080.00). All fees submitted are nonrefundable. Any applicant who files an application during the fiscal year must pay the full license fee. A fee must be submitted for each facility at each site for which licensure is being sought.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients shall not be accepted for treatment to the renal dialysis clinic until a license has been issued. Applicants shall not hold themselves out to the public as being a renal dialysis clinic until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(a)(1) or as later amended, and all information required by the Commissioner.

(d) 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 individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(e) The applicant shall allow the end stage renal dialysis clinic to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(Rule 1200-08-32-.12, continued)

(b) To be free from mental and physical abuse. Should this right be violated, the facility must notify the department within seven (7) business days and the Tennessee Department of Human Services, Adult Protective Services immediately as required by T.C.A. §71-6-101 et seq;

(c) To refuse treatment. The patient must be informed of the consequences of that decision. The refusal and its reason must be reported to the physician and documented in the medical record;

(d) To refuse experimental treatment and drugs. The patient's or health care decision maker's written consent for participation in research must be obtained and retained in his or her medical record;

(e) To have their records kept confidential and private. Written consent by the patient must be obtained prior to release of information except to persons authorized by law. If the patient lacks capacity, written consent is required from the patient's health care decision maker. The renal dialysis clinic must have policies to govern access and duplication of the patient's record;

(f) To have appropriate assessment and management of pain; and

(g) To be involved in all aspects of their care.

(2) Each patient has a right to self-determination, which encompasses the right to make choices regarding life-sustaining treatment (including resuscitative services). This right of self-determination may be effectuated by an advance directive.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed April 22, 2003; effective July 6, 2003. Amendment filed December 15, 2005; effective February 28, 2006.*

1200-08-32-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each end stage renal dialysis clinic shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a patient who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual patients. 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 patient could have made while having capacity, or may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to authorize the agent to make any health care decision the patient could have made while having capacity.

(3) The advance directive shall be in writing, signed by the patient, 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 patient by blood, marriage, or adoption and would not be entitled to any portion of the estate of the patient upon the death of the patient. The advance directive shall contain a clause that attests that the witnesses comply with the requirements of this paragraph.

(Rule 1200-08-32-.13, continued)

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

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a patient lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.

(7) An agent shall make a health care decision in accordance with the patient'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 patient's best interest. In determining the patient's best interest, the agent shall consider the patient's personal values to the extent known.

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

(9) A health care facility 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 patient'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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 patient 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 patient 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

(Rule 1200-08-32-.13, continued)

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

1. the patient has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(c) In the case of a patient who lacks capacity, the patient's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the patient is receiving health care.

(d) The patient's surrogate shall be an adult who has exhibited special care and concern for the patient, who is familiar with the patient'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 patient's spouse, unless legally separated;

2. the patient's adult child;

3. the patient's parent;

4. the patient's adult sibling;

5. any other adult relative of the patient; or

6. any other adult who satisfies the requirements of 1200-08-32-.13(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 patient shall be eligible to serve as the patient'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 known wishes of the patient or in accordance with the patient's best interests;

2. The proposed surrogate's regular contact with the patient 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 patient 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.

(Rule 1200-08-32-.13, continued)

(h) If the patient lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-32-.13(16)(c) thru 1200-08-32-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the patient after the designated 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 patient'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 patient'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 patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal values to the extent known to the surrogate.

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

(l) Except as provided in 1200-08-32-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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 patient's treating health care provider.

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

1. the employee so designated is a relative of the patient 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 patient to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.

(17) Guardian.

(Rule 1200-08-32-.13, continued)

(a) A guardian shall comply with the patient's individual instructions and may not revoke the patient'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 patient 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 patient 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 the determination in the patient's current clinical record and communicate the determination to the patient, if possible, and to any person then authorized to make health care decisions for the patient.

(19) Except as provided in 1200-08-32-.13(20) thru 1200-08-32-.13(22), a health care provider or institution providing care to a patient shall:

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

(b) comply with a health care decision for the patient made by a person then authorized to make health care decisions for the patient to the same extent as if the decision had been made by the patient 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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient.

(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 1200-08-32-.13(20) thru 1200-08-32-.13(22) shall:

(a) promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient;

(b) provide continuing care to the patient until a transfer can be effected or until the determination has been made that transfer cannot be effected;

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

(Rule 1200-08-32-.13, continued)

(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 patient has the same rights as the patient 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 patient, 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 for such identification 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 patient 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 may be used by a physician for a patient with whom the physician 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.~~

(Rule 1200-08-32-.13, continued)

~~(b) If the patient is an adult who is capable of making an informed decision, the patient'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 patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient'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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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 patient 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the

(Rule 1200-08-32-.13, continued)

provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any

(Rule 1200-08-32-.13, continued)

contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed April 22, 2003; effective July 6, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed December 15, 2005; effective February 28, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-32-.14 DISASTER PREPAREDNESS.

(1) The administration of every facility shall have in effect and available for all supervisory personnel and staff, written copies of the following required disaster plans, for the protection of all persons in the event of fire and other emergencies, for evacuation to areas of refuge and /or evacuation from the building. A detailed log with staff signatures of training received shall be maintained. All employees shall be trained annually as required in the following plans and shall be kept informed with respect to their duties under the plans. A copy of the plans shall be readily available at all times in the telephone operator's position or at the security center. Each of the following plans shall be exercised annually prior to the month listed in each plan:

(a) Fire Safety Procedures Plan (to be exercised at any time during the year) shall include:

1. Minor fires;

2. Major fires;

3. Fighting the fire;

4. Evacuation procedures; and

5. Staff functions by department and job assignment.

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

1. Staff duties by department and job assignment; and

2. Evacuation procedures.

(c) Bomb Threat Procedures Plan (to be exercised at any time during the year) 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) Floods Procedures 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 Procedures Plans shall include:

1. Staff duties;

(Rule 1200-08-32-.14, continued)

2. Equipment failures;

3. Insufficient HVAC on emergency power; and

4. Evacuation procedures.

(f) Earthquake Disaster Procedures Plan shall include:

1. Staff duties;

2. Evacuation procedures;

3. Safety procedures; and

4. Emergency services.

All facilities shall participate in the Tennessee Emergency Management local/county emergency plan on an annual basis. Participation includes but is not limited to filling out and submitting a questionnaire on a form to be provided by the Tennessee Emergency Management Agency. Documentation of participation shall be maintained and shall be made available to survey staff as proof of participation.

(2) In the event of natural disaster or electrical power failure, no new dialysis procedures shall be begun, and dialysis procedures in progress shall be brought to conclusion as soon as possible.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed April 22, 2003; effective July 6, 2003.*

1200-08-32-.15 APPENDIX I

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

~~(This space intentionally left blank)~~

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

(This space intentionally left blank)

(Rule 1200-08-32-.15, continued)

A COPY OF THIS 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) (Allow Natural Death) 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 & NUTRITION. Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-32-.15, continued)

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

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-32-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** Other Instructions: _____
Section C Check One	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. Other Instructions: _____

Section D 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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-32-.15, continued)

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-32-.15, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

(Rule 1200-08-32-.15, continued)

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-32-.15, continued)

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

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-32-.15, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-34
STANDARDS FOR HOME CARE ORGANIZATIONS
PROVIDING PROFESSIONAL SUPPORT SERVICES

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1200-08-34-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~ Administrator. A person who establishes policies and procedures and is responsible for the activities of the agency and its staff. This person may be a physician, registered nurse, therapist, or a person with at least one (1) year experience in a health or disability related field. The administrator of a home care organization may serve as both a home health agency and professional support service agency administrator if both agencies are owned by the same corporation or legal entity.

(3) ~~(2)~~ Adult. An individual who has capacity and is at least 18 years of age.

(4) ~~(3)~~ Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) ~~(4)~~ Agency. A home care organization providing professional support services.

(6) ~~(5)~~ Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(7) ~~(6)~~ Board. The Tennessee Board for Licensing Health Care Facilities.

(8) ~~(7)~~ Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a consumer to make health care decisions while having the capacity to do so. A consumer shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a consumer shall have the burden of proving lack of capacity.

(9) ~~(8)~~ Clinical Note. A written and dated notation containing a consumer assessment, responses to medications, treatments, services, any changes in condition and signed by a health team member who made contact with the consumer.

(Rule 1200-08-34-.01, continued)

(10) ~~(9)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(11) ~~(10)~~ Competent. A consumer who has capacity.

(12) ~~(11)~~ Comprehensive Nursing assessment. An assessment conducted by a registered nurse which consists of four parts: completion of a Physical Status Review (PSR); consumer and family history; identification of health concerns, functional abilities, activities of daily living; and, completion of a head to toe physical assessment.

(13) ~~(12)~~ Consumer. Any person with a primary diagnosis of mental retardation or developmental disability served through the Division of Mental Retardation Services or the Department of Mental Health and Developmental Disabilities in need of nursing, occupational, physical or speech therapy through a professional support service agency.

(14) ~~(13)~~ Department. The Tennessee Department of Health.

(15) ~~(14)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(16) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(17) ~~(15)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(18) ~~(16)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(19) ~~(17)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(20) ~~(18)~~ Hazardous Waste. Materials whose handling, use, storage and disposal are governed by local, state or federal regulations.

(21) ~~(19)~~ Health Care. 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).

(22) ~~(20)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(23) ~~(21)~~ Health Care Decision-maker. In the case of a consumer who lacks capacity, the consumer's health care decision-maker is one of the following: the consumer's health care agent as specified in an advance directive, the consumer's court-appointed guardian or conservator with health care decision-making authority, the consumer's surrogate as determined pursuant to Rule 1200-08-34-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(24) ~~(22)~~ Health Care Institution. A health care institution as defined in T.C.A. §68-11-1602.

(Rule 1200-08-34-.01, continued)

(25) ~~(23)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(26) ~~(24)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

(27) ~~(25)~~ Individual Support Plan (ISP). The document resulting from a process of person-centered planning. The ISP describes in detail the person, including his/her vision for his/her future, preferences, non-negotiables, and other information required to support the person in daily life. The ISP contains outcomes to be achieved with the assistance of the person's Circle of Support that relate to the person's vision for the future. The ISP is written upon a person's enrollment in Department of Mental Retardation Services and updated thereafter as changes occur in the individual's life, or at least annually.

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

(29) ~~(27)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(30) ~~(28)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(31) ~~(29)~~ Life Threatening or Serious Injury. Injury requiring the consumer to undergo significant additional diagnostic or treatment measures.

(32) ~~(30)~~ Medical Record. Medical histories, records, reports, clinical notes, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries and other written electronic, or graphic data prepared, kept, made or maintained in an agency that pertains to confinement or services rendered to consumers. The medical record shall meet the standards established in the contractual agreement between the state agency financially responsible for services to individuals with mental retardation or developmental disabilities.

(33) ~~(31)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the consumer or other medical or surgical treatments to achieve the expressed goals of the informed consumer. In the case of the incompetent consumer, the consumer's representative expresses the goals of the consumer.

(34) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(35) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(36) ~~(32)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(37) ~~(33)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(Rule 1200-08-34-.01, continued)

~~(34) Patient/Consumer Abuse. Patient/consumer neglect, intentional infliction of pain, injury, or mental anguish. Patient/consumer abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or consumer; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient/consumer abuse" for purposes of these rules.~~

(38) ~~(35)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(39) ~~(36)~~ Personally Informing. A communication by any effective means from the consumer directly to a health care provider.

(40) ~~(37)~~ Physical Status Report (PSR). An instrument used by a registered nurse or other designated professional staff to determine level of risk and define the required health services and supports.

(41) ~~(38)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(42) ~~(39)~~ Physical Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(43) ~~(40)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

(44) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(45) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(46) (41) Plan of Care. Health care plan resulting from the comprehensive nursing assessment and/or therapy plan identifying the need for nursing, physical, occupational, or speech therapy for consumers of professional support services. The plan shall meet the standards

(Rule 1200-08-34-.01, continued)

established in the contractual agreement between the state agency financially responsible for services to individuals with mental retardation or developmental disabilities.

(47) ~~(42)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(48) ~~(43)~~ Professional Support Services. Nursing, occupational, physical or speech therapy services provided to individuals with mental retardation or developmental disabilities pursuant to a contract with the state agency financially responsible for such services.

(49) ~~(44)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(50) ~~(45)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the consumer's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(51) ~~(46)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(52) ~~(47)~~ Shall or Must. Compliance is mandatory.

(53) ~~(48)~~ Site Code. An approved location from which the professional support services may be provided as deemed by the Department of Mental Retardation Services with written notice provided to the Department of Health by the professional support service agency for each site code approved for such agency.

(54) ~~(49)~~ Speech Language Pathologist. A person currently licensed as such by the Tennessee Board of Communication Disorders and Sciences or, for purposes of these rules, a Speech Language Pathologist who is currently in their Clinical Fellowship Year.

(55) ~~(50)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(56) ~~(51)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(57) ~~(52)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these rules.

(58) ~~(53)~~ Surrogate. An individual, other than a consumer's agent or guardian, authorized to make a health care decision for the consumer.

(59) ~~(54)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the consumer.

~~(55) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

(Rule 1200-08-34-.01, continued)
Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed January 24, 2003; effective April 9, 2003. Amendments filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-34-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or state, county, or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain in the State of Tennessee any home care organization providing professional support services without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure. The name of the agency shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the agency.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Home care organizations authorized to provide only professional support services shall pay an annual fee of one thousand eighty dollars ($1,080.00), except that this annual fee shall be two hundred seventy dollars ($270.00) for (i) home care organizations that also pay a fee to be licensed by the Department of Mental Health and Developmental Disabilities; (ii) home care organizations owned and operated by therapists who pay a fee to be licensed under Title 63, Chapter 13 or 17; or (iii) home care organizations that are owned and controlled by another home care organization that pay an annual license fee of at least one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Consumers shall not be admitted to the agency until a license has been issued. Applicants shall not hold themselves out to the public as being an agency until the license has been issued. A license shall not be issued until the agency is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the agency providing professional support services.

(e) 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 individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the home care organization providing professional support services to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

1200-08-34-.04 ADMINISTRATION.

(1) The home care organization providing professional support services must organize, manage and administer its services to attain and maintain the highest practicable functional capacity for each consumer regarding nursing and therapy needs as indicated by the plan of care.

(2) The agency shall develop and maintain administrative control of any site code.

(3) The organizational structure, professional support services provided, administrative control and lines of authority for the delegation of responsibility down to the consumer care level shall be clearly set forth in writing and shall be readily identifiable. Administrative and supervisory functions shall not be delegated to another agency.

(4) A governing body (or designated person(s) so functioning) must: assume full legal authority and responsibility for the management and provision of all professional support services; fiscal operations; quality assessment and performance improvement programs. The governing body shall appoint a qualified administrator who is responsible for the day-to-day operation of the organization and is responsible for designating people to carry out these functions.

(5) The administrator shall organize and direct the organization's ongoing functions, the professional personnel and the staff; employ qualified personnel and ensure adequate staff education and evaluation for all personnel involved in direct care; ensure the accuracy of public information materials and activities; and implement an effective budgeting and accounting system. A person with sufficient experience and training shall be authorized in writing to assume temporary duty during the administrator's short-term absence. The designee may be a physician, registered nurse, or a therapist.

(6) An agency shall have a duly qualified administrator accessible during normal operating hours. Any change of administrators shall be reported to the Department within fifteen (15) days.

~~(7) The administrator of a home care organization may serve as both a home health agency and professional support service agency administrator if both agencies are owned by the same corporation or legal entity.~~

(7) An administrator shall serve no more than one (1) licensed home care organization unless that home care organization provides other categories of home care organization services under the same ownership and at the same location.

(8) The agency shall maintain an office with a working telephone that is staffed or takes voice messages during normal business hours.

(9) When licensure is applicable for a particular position of employment, a copy of the current license or the number and renewal number of the employee's current license must be maintained in the employee's personnel file. Each personnel file shall contain accurate information as to the education, training, experience and personnel background of the employee. Proof of adequate medical screenings to exclude communicable disease shall be maintained in the file of each employee.

(10) Personnel practices shall be supported by written personnel policies. Personnel records shall include at a minimum: job descriptions, verification of references and credentials, and performance evaluations. Personnel records must be kept current. Agencies employing only one (1) staff member must maintain a personnel record with verification of current credentials.

(Rule 1200-08-34-.04, continued)

(11) An ongoing educational program shall be planned and conducted for the development and improvement of skills of all the agency's personnel engaged in delivery of professional support services. Each employee shall receive appropriate orientation to the agency, its policies, the employee's position, and the employee's duties. Records shall be maintained which indicate the subject of and attendance at such staff development programs.

(12) If personnel, under hourly or per visit contracts, are utilized by the agency, there shall be a written contract between such personnel and the agency clearly designating:

(a) That consumers are accepted for care only by the agency;

(b) Which professional support services are to be provided;

(c) That it is necessary to conform to all applicable agency policies including personnel qualifications;

(d) The responsibility for participating in developing plans of care;

(e) The manner in which professional support services will be controlled, coordinated and evaluated by the agency;

(f) The procedures for submitting clinical and progress notes, scheduling visits and periodic consumer evaluations; and

(g) The procedures for determining charges and reimbursement.

(13) Supervision of unlicensed personnel must occur at a minimum of every thirty (30) days and must include direct observation of the provision of care, record review and individual conferences.

(14) Whenever the rules of this chapter require that a licensee develop a written policy, plan, procedure, technique or system concerning a subject, the licensee shall develop the required policy, maintain it and adhere to its provisions. An agency which violates a required policy also violates the rule establishing the requirement.

(15) Policies and procedures shall be consistent with professionally recognized standards of practice.

(16) All agencies shall adopt appropriate policies regarding the testing of consumers and staff for human immunodeficiency virus (HIV) and any other identified causative agent of acquired immune deficiency syndrome.

(17) No agency shall retaliate against or, in any manner, discriminate against any person because of a complaint made in good faith and without malice to the Board, the Department, the Department of Human Services Adult Protective Services, the state agency financially responsible for services to consumers, or the Comptroller of the State Treasury. An agency shall neither retaliate nor discriminate because of information lawfully provided to these authorities, because of a person's cooperation with them or because a person is subpoenaed to testify at a hearing involving one of these authorities.

(18) All health care facilities licensed pursuant to T.C.A. §§ 68-11-201, et seq. shall post the following in the main public entrance:

(a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;

(Rule 1200-08-34-.04, continued)

(b) 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 concerning abuse, neglect and exploitation; and

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

Postings of (a) and (b) shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

(19) "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.

(20) The facility shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-17-1803, 39-17-1805, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-222, 68-11-268 and 71-6-121.* ***Administrative History:*** *Original rule filed January 24, 2003; effective April 9, 2003. Amendment filed April 17, 2007; effective July 1, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed February 22, 2010; effective May 23, 2010.*

1200-08-34-.05 ADMISSIONS, DISCHARGES, AND TRANSFERS.

(1) Consumers shall be accepted to receive professional support services on the basis of a reasonable expectation that the consumer's nursing and therapy needs can be met adequately by the agency.

(2) Professional support services shall be provided as prescribed by the attending physician. The plan for providing professional support services and the expected outcomes shall be incorporated into the consumer's plan of care or individual support plan.

(3) The agency staff shall determine if the consumer's needs can be met by the agency's services and capabilities.

(4) Every person admitted for professional support services by any agency covered by these rules shall be provided services as prescribed by the consumer's physician, as defined in this chapter, who holds a license in good standing. The name of the consumer's attending physician shall be recorded in the consumer's medical record.

(5) The agency staff shall obtain the consumer's or his/her designee's written consent for professional support services.

(6) The signed consent form shall be included with the consumer's individual clinical record.

(7) A diagnosis must be entered in the admission records of the agency for every person admitted for care or treatment.

(8) No medication or treatment shall be provided to any consumer of an agency except on the order of a physician lawfully authorized to give such an order.

(9) A medical record shall be developed and maintained for each consumer admitted.

(Rule 1200-08-34-.12, continued)

(c) To be involved in the decision making and all aspects of their care;

(d) To be free from mental and physical abuse. Should this right be violated, the agency must notify the Department within five (5) business days and the Tennessee Department of Human Services, Adult Protective Services as required by T.C.A. §71-6-101 et seq.;

(e) To refuse treatment. The consumer must be informed of the consequences of that decision, and the refusal and its reason must be reported to the physician and documented in the medical record;

(f) To refuse experimental treatment and drugs. The consumer's or health care decision maker's written consent for participation in research must be obtained and retained in the medical record; and

(g) To have their records kept confidential and private. Written consent by the consumer must be obtained prior to release of information except to persons authorized by law. If the consumer lacks capacity, written consent is required from the consumer's health care decision maker. The agency must have policies to govern access and duplication of the consumer's record.

(2) Each consumer has a right to self-determination, which encompasses the right to make choices regarding life-sustaining treatment, including resuscitative services. This right of self-determination may be effectuated by an advance directive.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed January 24, 2003; effective April 9, 2003. Amendment filed December 2, 2005; effective February 15, 2006.*

1200-08-34-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each professional support services agency shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a consumer who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual consumers. 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 consumer could have made while having capacity, or may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to authorize the agent to make any health care decision the consumer could have made while having capacity.

(3) The advance directive shall be in writing, signed by the consumer, 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 consumer by blood, marriage, or adoption and would not be entitled to any portion of the estate of the consumer upon the death of the consumer. The advance directive shall contain a clause that attests that the witnesses comply with the requirements of this paragraph.

(Rule 1200-08-34-.13, continued)

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

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a consumer lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.

(7) An agent shall make a health care decision in accordance with the consumer'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 consumer's best interest. In determining the consumer's best interest, the agent shall consider the consumer's personal values to the extent known.

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

(9) A health care facility 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 consumer'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 Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 consumer 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 consumer 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

(Rule 1200-08-34-.13, continued)

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

1. the consumer has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(c) In the case of a consumer who lacks capacity, the consumer's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the consumer is receiving health care.

(d) The consumer's surrogate shall be an adult who has exhibited special care and concern for the consumer, who is familiar with the consumer'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 consumer's spouse, unless legally separated;

2. the consumer's adult child;

3. the consumer's parent;

4. the consumer's adult sibling;

5. any other adult relative of the consumer; or

6. any other adult who satisfies the requirements of 1200-08-34-.13(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 consumer shall be eligible to serve as the consumer'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 known wishes of the consumer or in accordance with the consumer's best interests;

2. The proposed surrogate's regular contact with the consumer 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 consumer 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.

(Rule 1200-08-34-.13, continued)

(h) If the consumer lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-34-.13(16)(c) thru 1200-08-34-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the consumer after the designated 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 consumer'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 consumer'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 consumer's best interest. In determining the consumer's best interest, the surrogate shall consider the consumer's personal values to the extent known to the surrogate.

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

(l) Except as provided in 1200-08-34-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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 consumer's treating health care provider.

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

1. the employee so designated is a relative of the consumer 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 consumer to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.

(17) Guardian.

(Rule 1200-08-34-.13, continued)

(a) A guardian shall comply with the consumer's individual instructions and may not revoke the consumer'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 consumer 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 consumer 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 the determination in the consumer's current clinical record and communicate the determination to the consumer, if possible, and to any person then authorized to make health care decisions for the consumer.

(19) Except as provided in 1200-08-34-.13(20) thru 1200-08-34-.13(22), a health care provider or institution providing care to a consumer shall:

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

(b) comply with a health care decision for the consumer made by a person then authorized to make health care decisions for the consumer to the same extent as if the decision had been made by the consumer 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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated to the consumer or to a person then authorized to make health care decisions for the consumer.

(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 1200-08-34-.13(20) thru 1200-08-34-.13(22) shall:

(a) promptly so inform the consumer, if possible, and any person then authorized to make health care decisions for the consumer;

(b) provide continuing care to the consumer until a transfer can be effected or until the determination has been made that transfer cannot be effected;

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

(Rule 1200-08-34-.13, continued)

(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 consumer has the same rights as the consumer 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 consumer, 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 for such identification 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 consumer 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 may be used by a physician for a patient with whom the physician 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.~~

(Rule 1200-08-34-.13, continued)

~~(b) If the consumer is an adult who is capable of making an informed decision, the consumer'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 consumer is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the consumer be resuscitated by the person authorized to consent on the consumer'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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the Universal Do Not Resuscitate Order form when transferring an individual 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 consumer 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(Rule 1200-08-34-.13, continued)

Decisions Act, is not reasonably available, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise

(Rule 1200-08-34-.13, continued)

incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-34-.14 RESERVED.

~~**1200-08-34-.15 APPENDIX I**~~

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

(Rule 1200-08-34-.15, continued)

~~(This space intentionally left blank)~~

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

(This space intentionally left blank)

(Rule 1200-08-34-.15, continued)

A COPY OF THIS 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) (Allow Natural Death) 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 & NUTRITION. Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-34-.15, continued)

~~Name (print)~~	~~Signature~~	~~Relationship (write "self" if patient)~~	
~~Surrogate~~	~~Relationship~~	~~Phone Number~~	
~~Health Care Professional Preparing Form~~	~~Preparer Title~~	~~Phone Number~~	~~Date Prepared~~

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-34-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____

Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-34-.15, continued)

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-34-.15, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that

(Rule 1200-08-34-.15, continued)
medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-34-.15, continued)
Other instructions, such as burial arrangements, hospice care, etc.: _____

_____
_____
_____
_____
_____

(Attach additional pages if necessary)

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

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

_____
_____
_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-34-.15, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-35
STANDARDS FOR OUTPATIENT DIAGNOSTIC CENTERS

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1200-08-35-.01 DEFINITIONS.

(1) Abuse. The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(2) ~~(1)~~Acceptable Plan of Correction. The Licensing Division approves an Outpatient Diagnostic Center's plan to correct deficiencies identified during an on-site survey conducted by the Survey Division or its designated representative. The plan of correction shall be a written document and shall provide, but not limited to, the following information:

(a) How the deficiency will be corrected.

(b) Who will be responsible for correcting the deficiency.

(c) The date the deficiency will be corrected.

(d) How the facility will prevent the same deficiency from re-occurring.

(3) ~~(2)~~Accredited Record Technician (ART). A person currently accredited as such by the American Medical Records Association.

(4) ~~(3)~~Adult. An individual who has capacity and is at least 18 years of age.

(5) ~~(4)~~Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) ~~(5)~~Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(7) ~~(6)~~Board. The Tennessee Board for Licensing Health Care Facilities.

(8) ~~(7)~~ Cancer Treatment and Radiation Clinic. A facility in which the only procedures performed are diagnostic and therapeutic radiology, chemotherapy and related services.

(9) ~~(8)~~Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient to make health care decisions while having the

(Rule 1200-08-35-.01, continued)

capacity to do so. A patient shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient shall have the burden of proving lack of capacity.

(10) ~~(9)~~ Cardiac Catheterization. An invasive procedure in which a transluminal catheter is inserted into the femoral, internal jugular or antecubital vein and guided through the venous system into the heart chambers and/or coronary arteries while the patient is under conscious sedation in order to provide anatomic information on the heart chambers, coronary arteries, valves, myocardium, and the great vessels.

(11) ~~(10)~~ Cardiopulmonary Resuscitation (CPR). The administering of any means or device to support cardiopulmonary functions in a patient, 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 patient where cardiac or respiratory arrest has occurred or is believed to be imminent.

(12) ~~(11)~~ Certified Registered Nurse Anesthetist. A registered nurse currently licensed by the Tennessee Board of Nursing who is currently certified as such by the American Association of Nurse Anesthetists.

(13) ~~(12)~~ Collaborative Plan. The formal written plan between the mid-level practitioners and licensed physician.

(14) ~~(13)~~ Collaborative Practice. The implementation of the collaborative plan that outlines procedures for consultation and collaboration with other health care professionals, e.g., licensed physicians, mid-level practitioners or nurse midwives.

(15) (14) Commissioner. Commissioner of the Tennessee Department of Health or his or her authorized representative.

(16) ~~(15)~~ Competent. A patient who has capacity.

(17) ~~(16)~~ Computerized Tomography. A non-invasive radiological diagnostic procedure that may or may not include nuclear medical dye.

(18) ~~(17)~~ Conscious Sedation. A drug induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are usually required to maintain a patient airway, and spontaneous ventilation is usually adequate. Cardiovascular function is usually maintained.

(19) ~~(18)~~ Dentist. A person currently licensed as such by the Tennessee Board of Dentistry.

(20) ~~(19)~~ Department. The Tennessee Department of Health.

(21) ~~(20)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

~~(21) Do Not Resuscitate (DNR) Order. An order entered by the patient's treating physician in the patient's medical records which states that in the event the patient 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.~~

(Rule 1200-08-35-.01, continued)

(22) Do-Not-Resuscitate Order (DNR). A written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(23) ~~(22)~~ Electronic Signature. The authentication of a health record document or documentation in an electronic form achieved through electronic entry of an exclusively assigned, unique identification code entered by the author of the documentation.

(24) ~~(23)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(25) ~~(24)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(26) ~~(25)~~ Graduate Registered Nurse Anesthetist. A registered nurse currently licensed in Tennessee who is a graduate of a nurse anesthesia educational program that is accredited by the American Association of Nurse Anesthetist's Council on Accreditation of Nurse Anesthesia Educational Programs and awaiting initial certification examination results, provided that initial certification is accomplished within eighteen (18) months of completion of an accredited nurse anesthesia educational program.

(27) (26) Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(28) ~~(27)~~ Hazardous Waste. Materials whose handling, use, storage and disposal are governed by local, state or federal regulations.

(29) ~~(28)~~ Health Care. 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).

(30) ~~(29)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(31) ~~(30)~~ Health Care Decision-maker. In the case of a patient who lacks capacity, the patient's health care decision-maker is one of the following: the patient's health care agent as specified in an advance directive, the patient's court-appointed guardian or conservator with health care decision-making authority, the patient's surrogate as determined pursuant to Rule 1200-08-35-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(32) ~~(31)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(33) ~~(32)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(34) ~~(33)~~ Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(35) ~~(34)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(Rule 1200-08-35-.01, continued)

(37) ~~(36)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(38) ~~(37)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all applicable rules and regulations.

(39) ~~(38)~~ Life Threatening or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(40) ~~(39)~~ Lithotripsy. A technique using extracorporeal shock waves to break up stones that form in the kidney, bladder, ureters, or gallbladder while monitoring through x-ray or ultrasound.

(41) ~~(40)~~ Magnetic Resonance Imaging (MRI). A non-invasive diagnostic technique that produces computerized images of internal body tissues and is based on nuclear magnetic resonance of atoms within the body induced by the application of radio waves.

(42) ~~(41)~~ Mammography. A non-invasive radiological procedure used to take pictures of the breasts in order to diagnose tumors or cysts.

(43) ~~(42)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(44) ~~(43)~~ Medical Record. Medical histories, records, reports, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, x-rays, radiology interpretations and other written electronics, or graphic data prepared, kept, made or maintained in a facility that pertains to confinement or services rendered to patients admitted or receiving care.

(45) ~~(44)~~ Medical Staff. An organized body composed of individuals appointed by the Outpatient Diagnostic Center governing board. All members of the medical staff shall be licensed to practice in Tennessee, with the exception of interns and residents.

(46) ~~(45)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or other medical or surgical treatments to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the patient's representative expresses the goals of the patient.

(47) ~~(46)~~ Mid-Level Practitioner. A registered nurse licensed in Tennessee who holds a master's degree in a clinical nursing specialty, national certification through the ANCC or American Academy of Nurse Practitioners and holds a certificate of fitness to prescribe from the Tennessee Board of Nursing.

(48) Misappropriation of Patient/Resident Property. The deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(49) Neglect. The failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(Rule 1200-08-35-.01, continued)

(50) ~~(47)~~ N.F.P.A. National Fire Protection Association.

(51) ~~(48)~~ Nurse Midwife. A person currently licensed by the Tennessee Board of Nursing as a registered nurse (R.N.) and qualified to deliver midwifery services or certified by the American College of Nurse-Midwives.

(52) ~~(49)~~ Outpatient Diagnostic Center. Any facility providing outpatient diagnostic services (computerized tomography, magnetic resonance imaging, positron emission tomography, or other imaging technology developed after June 9, 2005 which provides substantially the same functionality), unless the outpatient diagnostic services are provided as the services of another licensed healthcare institution that reports such outpatient diagnostic services on its joint annual report, or the facility is otherwise excluded from this definition. Outpatient diagnostic center does not include a physician or dental practice that is conducted at a location occupied and controlled by one or more physicians or dentists licensed under Title 63, if the outpatient diagnostic services are ancillary to the specialties of the physicians' practice or are provided primarily for persons who are patients of the physicians or dentists in the practice for purposes other than outpatient diagnostic services. Outpatient diagnostic centers in existence prior to the effective date of this rule will be required to obtain licensure by the department of health and comply with relevant reporting requirements.

(53) ~~(50)~~ Patient. Includes but is not limited to any person who is suffering from an acute or chronic illness or injury or who is crippled, convalescent or infirm, or who is in need of obstetrical, surgical, medical, nursing or supervisory care.

~~(51) Patient Abuse. atient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.~~

(54) ~~(52)~~ Percutaneous Transluminal Coronary Angioplasty. An invasive diagnostic procedure in which a transluminal catheter is guided through the femoral, subclavian, internal jugular or antecubital vein allowing the passage of a balloon-tipped catheter distally into the coronary artery while viewing through radiological pictures. The balloon is aligned within the stenosis and inflated to dilate the vessel with or without the use of anticoagulants to reduce the incidence of thrombosis at the site of balloon dilation and calcium blockers or nitrates to reduce coronary spasm. Conscious sedation and local anesthesia at catheter insertion site are utilized during the procedure.

(55) ~~(53)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(56) ~~(54)~~ Personally Informing. A communication by any effective means from the patient directly to a health care provider.

(57) ~~(55)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

~~(56) Physician Assistant. A person who is licensed by the Tennessee Board of Medical Examiners and Committee on Physician Assistants and has obtained prescription writing authority pursuant to T.C.A. §63-19-107(2)(A).~~

(Rule 1200-08-35-.01, continued)

(58) Physician Assistant. A person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(59) Physician Orders for Scope of Treatment or POST. Written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(60) ~~(57)~~ Positron Emission Tomography (PET Scan). A non-invasive radiological procedure producing a sectional view of the body constructed by positron-emission tomography.

(61) ~~(58)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(62) ~~(59)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(63) ~~(60)~~ Radiological Technologist. A person currently certified as such by the American Society of Radiological Technologists.

(64) ~~(61)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(65) ~~(62)~~ Registered Nurse (R.N.). A person currently licensed as such by the Tennessee Board of Nursing.

(66) ~~(63)~~ Registered Record Administrator (RRA). A person currently registered as such by the American Medical Records Association.

(67) ~~(64)~~ Shall or Must. Compliance is mandatory.

(68) ~~(65)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(69) ~~(66)~~ Stereotactic Procedure. An invasive technique utilized for precisely directing the tip of a delicate needle or beam of radiation in three planes using coordinates provided by medical imaging such as x-ray or CT scan in order to reach a specific location in the body, eg. tumor.

(Rule 1200-08-35-.01, continued)

(70) ~~(67)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(71) ~~(68)~~ Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(72) ~~(69)~~ Transfer. The movement of a patient at the direction of a physician or other qualified medical personnel when a physician is not readily available but does not include such movement of a patient who leaves the facility against medical advice.

(73) ~~(70)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

~~(71) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.~~

(74) ~~(72)~~ Vascular Embolization. Therapeutic introduction of various substances into the circulation to occlude vessels, either to arrest or prevent hemorrhaging, to devitalize a structure, tumor or organ by occluding its blood supply or to reduce blood flow to an arteriovenous malformation.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-216, 68-11-224 and 68-11-1802.* ***Administrative History****: Original rule filed October 26, 2005; effective January 9, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-35-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or state, county, or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain in the State of Tennessee any Outpatient Diagnostic Center as defined, without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30. The license shall be posted in a conspicuous place in the Outpatient Diagnostic Center.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients shall not be admitted to the Outpatient Diagnostic Center until a license has been issued. Applicants shall not hold themselves out to the public as being an Outpatient Diagnostic Center until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules and regulations including submission of all information required by Tennessee Code Annotated § 68-11-206(l), or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the facility.

(Rule 1200-08-35-.12, continued)
Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.*
Administrative History: *Original rule filed October 26, 2005; effective January 9, 2006.*

1200-08-35-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

(1) Pursuant to this Rule, each outpatient diagnostic center shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a patient who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual patients. 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 patient could have made while having capacity, or may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to authorize the agent to make any health care decision the patient could have made while having capacity.

(3) The advance directive shall be in writing, signed by the patient, 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 patient by blood, marriage, or adoption and would not be entitled to any portion of the estate of the patient upon the death of the patient. 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 authority of an agent becomes effective only upon a determination that the patient lacks capacity, and ceases to be effective upon a determination that the patient has recovered capacity.

(5) A facility may use any advanced directive form that meets the requirements of the Tennessee Health Care Decisions Act or has been developed and issued by the Board for Licensing Health Care Facilities.

(6) A determination that a patient lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.

(7) An agent shall make a health care decision in accordance with the patient'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 patient's best interest. In determining the patient's best interest, the agent shall consider the patient's personal values to the extent known.

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

(9) A health care facility 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 patient'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 Tennessee Code Annotated, Title 32, Chapter 11, and

(Rule 1200-08-35-.13, continued)

a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, 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 patient 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 patient 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 an 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 an earlier 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 the supervising health care provider. The designation may be oral or written.

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

1. the patient has been determined by the designated physician to lack capacity, and

2. no agent or guardian has been appointed, or

3. the agent or guardian is not reasonably available.

(c) In the case of a patient who lacks capacity, the patient's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the patient is receiving health care.

(d) The patient's surrogate shall be an adult who has exhibited special care and concern for the patient, who is familiar with the patient'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 patient's spouse, unless legally separated;

2. the patient's adult child;

3. the patient's parent;

4. the patient's adult sibling;

5. any other adult relative of the patient; or

6. any other adult who satisfies the requirements of 1200-08-35-.13(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 patient shall be eligible to serve as the patient'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 known wishes of the patient or in accordance with the patient's best interests;

2. The proposed surrogate's regular contact with the patient 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 patient 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 patient lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-35-.13(16)(c) thru 1200-08-35-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the patient after the designated 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 patient'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 patient'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 patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal values to the extent known to the surrogate.

(k) A surrogate who has not been designated by the patient may make all health care decisions for the patient that the patient could make on the patient's own behalf, except that artificial nutrition and hydration may be withheld or withdrawn for a patient upon a decision of the surrogate only when the designated physician and a second independent physician certify in the patient's current clinical records that the provision

(Rule 1200-08-35-.13, continued)

or continuation of artificial nutrition or hydration is merely prolonging the act of dying and the patient is highly unlikely to regain capacity to make medical decisions.

(l) Except as provided in 1200-08-35-.13(16)(m):

1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; 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 patient's treating health care provider.

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

1. the employee so designated is a relative of the patient 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 patient to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.

(17) Guardian.

(a) A guardian shall comply with the patient's individual instructions and may not revoke the patient'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 patient 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 patient 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 the determination in the patient's current clinical record and communicate the determination to the patient, if possible, and to any person then authorized to make health care decisions for the patient.

(19) Except as provided in 1200-08-35-.13(20) thru 1200-08-35-.13(22), a health care provider or institution providing care to a patient shall:

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

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

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

(Rule 1200-08-35-.13, continued)

(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 a policy of the institution which is based on reasons of conscience, and

(b) the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient.

(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 1200-08-35-.13(20) thru 1200-08-35-.13(22) shall:

(a) promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient;

(b) provide continuing care to the patient until a transfer can be effected or until the determination has been made that transfer cannot be effected;

(c) unless the patient or person then authorized to make health care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health care provider or institution that is willing to comply with the instruction or decision; 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 patient has the same rights as the patient 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 patient, 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 for such identification made in good faith.

(Rule 1200-08-35-.13, continued)

(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 patient 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 may be used by a physician for a patient with whom the physician 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 patient is an adult who is capable of making an informed decision, the patient'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 patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient'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 or by the department of mental health 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 individual 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 individual's record. The POST form promulgated by the Board for Licensing Health Care Facilities shall serve as the~~

(Rule 1200-08-35-.13, continued)

~~Universal Do Not Resuscitate Order form when transferring an individual 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 patient 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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(Rule 1200-08-35-.13, continued)

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility

(Rule 1200-08-35-.13, continued)

prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1803, 68-11-1804, 68-11-1805, 68-11-1806 through 68-11-1810, 68-11-1813, and 68-11-1814.* ***Administrative History****: Original rule filed October 26, 2005; effective January 9, 2006. Amendments filed January 3, 2012; effective April 2, 2012.*

1200-08-35-.14 DISASTER PREPAREDNESS.

(1) The administration of every facility shall have in effect and available for all supervisory personnel and staff, written copies of the following required disaster plans for the protection of all persons in the event of fire and other emergencies for evacuation to areas of refuge and/or evacuation from the building. A detailed log with staff signatures of training received shall be maintained. All employees shall be trained annually as required in the following plans and shall be kept informed with respect to their duties under the plans. A copy of the plans and the specific emergency numbers related to that type of disaster shall be readily available at all times. Each of the following plans shall be exercised annually:

(a) Fire Safety Procedures Plan shall include:

1. Minor fires;

2. Major fires;

3. Fighting the fire;

4. Evacuation procedures;

5. Staff functions.

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

1. Staff duties;

2. Evacuation procedures.

(c) Flood Procedure Plan, if applicable:

1. Staff duties;

2. Evacuation procedures;

(Rule 1200-08-35-.14, continued)

3. Safety procedures following the flood.

(d) Earthquake Disaster Procedures Plan:

1. Staff duties;

2. Evacuation procedures;

3. Safety procedures;

4. Emergency services.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History****: Original rule filed October 26, 2005; effective January 9, 2006.*

1200-08-35-.15 APPENDIX I

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

~~(This space intentionally left blank)~~

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

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(Rule 1200-08-35-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Physician Orders for Scope of Treatment (POST)	Patient's Last Name
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.	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) (Allow Natural Death) 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 & NUTRITION. Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-35-.15, continued)

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

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

~~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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-35-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____
Section D *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/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date NP/CNS/PA (Signature at Discharge)	MD/NP/CNS/PA Phone Number:

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-35-.15, continued)

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(2) Advance Care Plan Form

(Rule 1200-08-35-.15, continued)

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

(Rule 1200-08-35-.15, continued)

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

Page 1 of 2

(Rule 1200-08-35-.15, continued)

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

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-35-.15, continued)

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

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.*
Administrative History: *Original rule filed August 28, 2012; effective November 26, 2012.*

RULES
OF
DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-36
STANDARDS FOR ADULT CARE HOMES — LEVEL 2

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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.~~

(1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(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.~~

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

(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.

(Rule 1200-08-36-.01, continued)

(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) "Assistance with self-administration of medication" means assistance in reading labels, opening medication containers or packaging, reminding residents of their medication, or observing the resident while taking medication in accordance with the plan of care.

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

(12) ~~(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.

(13) ~~(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) "Do-not-resuscitate order (DNR)" means a written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

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

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

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

(18) ~~(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).

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

(20) ~~(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).

(21) ~~(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.

(Rule 1200-08-36-.01, continued)

(22) ~~(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.

(23) ~~(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.

(24) ~~(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.

(25) ~~(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."

(26) ~~(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) "Misappropriation of patient/resident property" means the deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.

(28) "Neglect" means the failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed "neglect" for purposes of these rules.

(29) ~~(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.~~

(30) ~~(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.

(31) ~~(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.

(Rule 1200-08-36-.01, continued)

(32) ~~(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.

(33) "Physician assistant" means a person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under title 63, chapter 19.

(34) "Physician orders for scope of treatment" or "POST" means written orders that:

(a) Are on a form approved by the Board for Licensing Health Care Facilities;

(b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and

(c)

1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;

2. Specify other medical interventions that are to be provided or withheld; or

3. Specify both 1 and 2.

(35) ~~(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.

(36) ~~(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.

(37) ~~(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.~~

(38) "Self-Administration of Medication" means the ability to administer medicine to oneself without assistance other than receiving help with reading labels or with physically opening the container or packaging, being reminded of one's medication, or being observed while taking medication in accordance with the plan of care.

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

(40) ~~(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.

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

(Rule 1200-08-36-.01, continued)

(42) ~~(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.

(43) ~~(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.

(44) ~~(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.~~

(45) ~~(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.* ***Administrative History:*** *Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011.*

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.

(Rule 1200-08-36-.05, continued)

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.* ***Administrative History:*** *Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011.*

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.

(Rule 1200-08-36-.06, continued)

(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.~~

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

(a) Upon discharge of a resident, unused prescription medication shall be released to the resident, the resident's family member, or the resident's legal representative, unless specifically prohibited by the attending physician.

(b) Upon the death of a resident, unused prescription medication must be destroyed in the manner outlined and by the individuals designated in the facility's medication disposal policy, unless otherwise requested by the resident's family member or the resident's legal representative and accompanied by a written order by a physician. The ACH's medication disposal policy shall be written in accordance with current FDA or current DEA medication disposal guidelines.

(c) The ACH shall properly dispose of prescription medication administered by the facility in accordance with the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines.

(d) The ACH may dispose of prescription medication that is self-administered by the resident according to the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines, or the facility may provide information to the resident's family member or the resident's legal representative regarding the proper method to dispose of the medication.

(e) If the resident is a hospice patient, hospice shall be responsible for disposing of the prescription medication upon death of the resident.

(f) The ACH's medication disposal policy shall also address the disposal of scheduled drugs, non-scheduled drugs, and devices that are misbranded, expired, deteriorated, not kept under proper conditions, and kept in containers with illegible or missing labels.

(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;

(Rule 1200-08-36-.06, continued)

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.

(Rule 1200-08-36-.06, continued)

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. **Administrative History:** Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011.

1200-08-36-.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.

(Rule 1200-08-36-.07, continued)

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.~~

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

   (vii) A copy of the medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines, for resident's review and signature.

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

(Rule 1200-08-36-.07, continued)

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

(Rule 1200-08-36-.07, continued)

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.* ***Administrative History:*** *Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2010; effective April 28, 2011.*

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.

(Rule 1200-08-36-.15, continued)

(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.* ***Administrative History:*** *Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011.*

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.

(Rule 1200-08-36-.16, continued)

(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;

(Rule 1200-08-36-.16, continued)

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

(Rule 1200-08-36-.16, continued)

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:

(Rule 1200-08-36-.16, continued)

(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

(Rule 1200-08-36-.16, continued)

(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.~~

(Rule 1200-08-36-.16, continued)

~~(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.~~

(30) Physician Orders for Scope of Treatment (POST)

(a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:

1. With the informed consent of the patient;

2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.

(b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);

2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;

3. Either:

(Rule 1200-08-36-.16, continued)

(i) The patient is a resident of a nursing home licensed under title 68 or an ICF/MR facility licensed under title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or

(ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and

4. Either:

(i) With the informed consent of the patient;

(ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon 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

(iii) 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 and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

(c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, 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 and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(Rule 1200-08-36-.16, continued)

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST 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 POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

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

Authority: *T.C.A §§68-11-209, 68-11-224 and 68-11-1801. et seq.* ***Administrative History:*** *Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011.*

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;

(Rule 1200-08-36-.17, continued)

(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.* ***Administrative History:*** *Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011.*

1200-08-36-.18 APPENDIX I.

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

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

(This space intentionally left blank)

(Rule 1200-08-36-.18, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Physician Orders for Scope of Treatment (POST)	Patient's Last Name
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.	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) (Allow Natural Death) 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 & NUTRITION.** Oral fluids & 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 Signature (Mandatory) Date	Physician Phone Number

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

Preferences have been expressed to a physician and/or health care professional. This form can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-36-.18, continued)

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

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

~~**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.~~

~~COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.~~

(Rule 1200-08-36-.18, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") 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 is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** 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 Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. 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. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:* _____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:* _____
Section D *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/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

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

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

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

(Rule 1200-08-36-.18, continued)

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

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

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.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

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 Health Care Agent or 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 D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-36-.18, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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 the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: _____ Phone #: _____ Relation: _____
Address: _____

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes	☐ No	**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.
☐ Yes	☐ No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ Yes	☐ No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is 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 (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

(Rule 1200-08-36-.18, continued)

☐ 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 a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Please sign on page 2

(Rule 1200-08-36-.18, continued)

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

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

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

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

_____

_____

_____

☐ No organ/tissue donation.

SIGNATURE

Your signature must **either** be witnessed by two competent adults **or** notarized. If witnessed, neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must 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 or alternate. 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 or alternate. 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

(Rule 1200-08-36-.18, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.*
Administrative History: *Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011. Repeal and new rule filed August 28, 2012; effective November 26, 2012.*