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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. TCA Section 4-5-205

Agency/Board/Commission:	Department of Health
Division:	Division of Health Care Facilities
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Revision Type (check all that apply):

- 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-.06	Basic Hospital Functions

Chapter Number	Chapter Title
1200-08-08	Regulations for Home Care Organizations
Rule Number	Rule Title
1200-08-08-.01	Definitions
1200-08-08-.02	Application for a License
1200-08-08-.05	Procedures for the Withholding of Resuscitation Services

(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>)

Department of Health
Rulemaking Hearing Rules
Board for Licensing Health Care Facilities

Chapter 1200-08-01
Standards for Hospitals

Amendments

Rule 1200-08-01-.01 Definitions is amended by deleting paragraphs (2) and (77) and re-numbering the remaining paragraphs appropriately.

Authority: T.C.A. § 68-11-209.

Rule 1200-08-01-.01 Definitions is amended by adding the following language as two (2), new, appropriately numbered paragraphs, so that as amended, the two (2), new, appropriately numbered paragraphs shall read:

- () Registered Health Information Administrator (RHIA). A person currently registered as such by the American Health Information Management Association.
- () Registered Health Information Technician (RHIT). A person currently accredited as such by the American Health Information Management Association.

Authority: T.C.A. § 68-11-209.

Rule 1200-08-01-.06 Basic Hospital Functions is amended by deleting subparagraph (5)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (5)(b) shall read:

- (b) The hospital must have a medical record service that has administrative responsibility for medical records. The service shall be supervised by a Registered Health Information Administrator (RHIA), a Registered Health Information Technician (RHIT), or a person qualified by work experience. A medical record must be maintained for every individual evaluated or treated in the hospital.

Authority: T.C.A. § 68-11-209.

Chapter 1200-08-08
Regulations for Home Care Organizations

Repeals

Rule 1200-08-08-.01, Definitions, is repealed.

Authority: T.C.A. § 68-11-209.

Rule 1200-08-08-.02, Application for a License, is repealed.

Authority: T.C.A. § 68-11-209.

Rule 1200-08-08-.05, Procedures for the Withholding of Resuscitation Services, is repealed.

Authority: T.C.A. § 68-11-209.

* 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)
Larry Arnold, M.D.			X		
Duane Budd, M.D.	X				
Charlotte Burns	X				
Thomas Carr, M.D.	X				
Elizabeth Chadwell	X				
Alex Gaddy	X				
Estelle Garner	X				
Robert Gordon	X				
C. Luke Gregory	X				
Jim Hastings				X	
Norman E. Jones, M.D.	X				
Charlsie H. Lankford				X	
Carissa S. Lynch, D.PH.				X	
Annette Marlar, R.N.				X	
Nancy C. Peace				X	
Ronald C. Staples, D.D.S.	X				
Joe T. Walker, D.D.S.	X				
Carlyle L. E. Walton	X				
James V. Weatherington	X				
Jon Winter, D.O.				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 08/01/2007, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 05/02/07

Rulemaking Hearing(s) Conducted on: (add more dates). 07/17/07

Date: 12/23/09

Signature: Lucille F. Bond

Name of Officer: Lucille F. Bond
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 12/23/09

Notary Public Signature: Theodore P. Wilkins

My commission expires on: 11/7/2011



All rulemaking hearing rules provided 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.

REC Cooper
Robert E. Cooper, Jr.
Attorney General and Reporter
3-12-10 Date

Department of State Use Only

Filed with the Department of State on: 3/18/10

Effective on: 6/16/10

Tre Hargett
Tre Hargett
Secretary of State

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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.

(See attached)



STATE OF TENNESSEE
DEPARTMENT OF HEALTH
BUREAU OF HEALTH LICENSURE AND REGULATION
DIVISION OF HEALTH CARE FACILITIES
227 FRENCH LANDING, SUITE 501, HERITAGE PLACE METROCENTER
NASHVILLE, TENNESSEE 37243
TELEPHONE (615) 741-7221
FAX (615) 741-7051

Date: August 6, 2007
To: Attorney General
From: Ann Thompson, Director, Board for Licensing Health Care Facilities
Subject: Certification of Compliance with T.C.A. § 4-5-222 as to Rule Numbers
1200-8-1 Standards for Hospitals and 1200-8-8 Regulations for Home
Care Organizations

I certify that there were no comments, either oral or written, filed at the rulemaking hearing held regarding this rule and therefore there are no responses as required by T.C.A. § 4-5-222 to be filed. I further certify compliance with all other provisions of T.C.A. § 4-5-222.

Ann Thompson, Director
Board for Licensing Health Care Facilities

Subscribed and sworn to before me this the 6th day of August, 2007.

Notary Public



My commission expires on the 3rd day of January, 2011.

MINUTES

RULEMAKING HEARING

TN BOARD FOR LICENSING HEALTH CARE FACILITIES

July 17, 2007 (9:00 A.M.)

The rulemaking hearing for the Tennessee Board for Licensing Health Care Facilities was called to order at 9:00 a.m., Central Daylight Saving Time, on July 17, 2007 in the Department of Health Conference Center's Mockingbird Room of the Heritage Place Metrocenter Building, Nashville, Tennessee. Steve Goodwin was the presiding officer.

No member of the public attended the rulemaking hearing. No written or oral comments were received at the rulemaking hearing.

The rulemaking hearing concluded at 9:20 a.m., Central Daylight Saving Time.



Steve Goodwin, Presiding Officer
Division of Health Care Facilities

7-17-07

Date

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.

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Analysis

The amendments to Rules 1200-8-1-.01, 1200-8-1-.06, 1200-8-8-.01, 1200-8-8-.02, 1200-8-8-.05 have no economic impact to small businesses.

- (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:

There are no small businesses per the definition ascribed by the Regulatory Flexibility Analysis of rules being considered for authorization to have a rulemaking hearing which are affected by this rule amendment. Those businesses affected are hospitals licensed in the state of Tennessee. As of August 31, 2007, Tennessee has one hundred forty-two (142) licensed hospitals.

- (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:

The proposed amendments have no increased or new reporting, recordkeeping, or other administrative costs that are required for compliance.

- (3) Statement of the probable effect on impacted small businesses and consumers:

The proposed amendments shall have no effect on small businesses and consumers.

- (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:

The Board does not believe there are less burdensome alternatives to the proposed rule amendments because the proposed rule amendments are merely definition and position title changes.

- (5) Comparison of the proposed rule with any federal or state counterparts:

The Board is not aware of any federal counterparts. The proposed rule amendments are similar to current or proposed state rules of all licensed facility types.

- (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.

It is not possible to exempt small businesses from the requirements contained in the proposed rule because the rule amendment directly affects licensed hospitals which have fifty (50) or more employees.

Additional Information Required by Joint Government Operations Committee

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

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

The rule amendment adds two new definitions to Rule 1200-08-01-.01 by adding the definitions for a Registered Health Information administrator (RHIA) and a Registered Health Information Technician (RHIT)

Rule 1200-08-01-.06 Basis hospital Functions is amended by adding language requiring a hospital to have a medical record service with administrative responsibility for medical records that is supervised by a Registered Health Information Administrator. Additionally, the rule states that a medical record must be maintained for every individual evaluated or treated in the hospital.

- (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;

N/A

- (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;

Hospitals. Home Care Organizations.

- (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;

None

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

Vincent Davis, Director, Division of Health Care Facilities, and I, Lucille F. Bond, Assistant General Counsel, Department of Health, possess substantial knowledge and understanding of the rules.

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

Vincent Davis, Director, Division of Health Care Facilities, and I, Lucille F. Bond, Assistant General Counsel, Department of Health, will explain the rule at a scheduled meeting of the committees.

- (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

Vincent Davis, Director, Division of Health Care Facilities, 227 French Landing, Suite 501, Heritage Place MetroCenter, Nashville, TN 37243, (615) 741-7221, Vincent.davis@tn.gov
Lucille F. Bond, Assistant General Counsel, Department of Health, 220 Athens Way, Suite 210, Nashville TN 37243, (615) 741-1611, Lucille.f.bond@tn.gov.

(l) 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 1200-8-1
STANDARDS FOR HOSPITALS**

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1200-8-1-.01 DEFINITIONS.

- (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.
- ~~(2) **Accredited Record Technician (ART).** A person currently accredited as such by the American Medical Records Association.~~
- (3) **Adult.** An individual who has capacity and is at least 18 years of age.
- (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.
- (5) **Agent.** An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.
- (6) **Board.** The Tennessee Board for Licensing Health Care Facilities.
- (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 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 1200-8-1-.01, continued)

- (8) 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) Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.
- (10) 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) 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) Certified Respiratory Therapist. A person currently certified as such by the Tennessee Board of Medical Examiners' Council on Respiratory Care.
- (13) Certified Respiratory Therapy Technician. A person currently certified as such by the Tennessee Board of Medical Examiners' Council on Respiratory Care.
- (14) 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) 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) Collaborative Plan. The formal written plan between the mid-level practitioners and a licensed physician.
- (17) Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.
- (18) Competent. A patient who has capacity.
- (19) Corrective Action Plan/Report. A report filed with the department by the facility after reporting an unusual event. The report must consist of the following:
 - (a) the action(s) implemented to prevent the reoccurrence of the unusual event,
 - (b) the time frames for the action(s) to be implemented,
 - (c) the person(s) designated to implement and monitor the action(s), and
 - (d) the strategies for the measurements of effectiveness to be established.
- (20) 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

(Rule 1200-8-1-.01, continued)

- can be used interchangeably for acute or Skilled Nursing Facility (SNF/swing-bed) level of care services.
- (21) Dentist. A person currently licensed as such by the Tennessee Board of Dentistry.
 - (22) Department. The Tennessee Department of Health.
 - (23) 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.
 - (24) 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.
 - (25) 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.
 - (26) 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.
 - (27) 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.
 - (28) 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.
 - (29) 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.
 - (30) 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.
 - (31) Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.
 - (32) Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state or federal regulations.
 - (33) 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).
 - (34) Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(Rule 1200-8-1-.01, continued)

- (35) 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 1200-8-1-.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.
- (36) Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.
- (37) 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.
- (38) 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 1200-8-1-.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

(Rule 1200-8-1-.01, continued)

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.

- (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.
- (39) 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.
 - (40) Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.
 - (41) Individual instruction. An individual's direction concerning a health care decision for the individual.
 - (42) 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.
 - (43) 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.
 - (44) 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.
 - (45) Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(Rule 1200-8-1-.01, continued)

- (46) Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.
- (47) Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.
- (48) Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.
- (49) 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.
- (50) 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.
- (51) 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.
- (52) 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.
- (53) Member of the Professional Medical Community. A professional employed by the hospital and on the premises at the time of a voluntary delivery.
- (54) Mid-Level Practitioner. Either a certified nurse practitioner or a physician assistant.
- (55) N.F.P.A. The National Fire Protection Association.
- (56) Nuclear Medicine Technologist. A person currently registered as such by the National Association for Nuclear Medicine Technology.
- (57) 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.
- (58) Occupational Therapist. A person currently certified as such by the Tennessee Board of Occupational and Physical Therapy Examiners.
- (59) Occupational Therapy Assistant. A person currently certified as such by the Tennessee Board of Occupational and Physical Therapy Examiners.
- (60) Optometrist. A person currently licensed as such by the Tennessee Board of Optometry.
- (61) 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.

(Rule 1200-8-1-.01, continued)

- (62) 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) Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (64) Personally Informing. A communication by any effective means from the patient directly to a health care provider.
- (65) Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.
- (66) Physical Therapist. A person currently certified as such by the Tennessee Board of Occupational and Physical Therapy Examiners.
- (67) Physical Therapy Assistant. A person currently certified as such by the Tennessee Board of Occupational and Physical Therapy Examiners.
- (68) Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.
- (69) 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).
- (70) Podiatrist. A person currently licensed as such by the Tennessee Board of Registration in Podiatry.
- (71) 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.
- (72) Psychologist. A person currently licensed as such by the Tennessee Board of Examiners in Psychology.
- (73) 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.
- (74) Radiological Technologist. A person currently registered as such by the American Society of Radiological Technologists.
- (75) 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.
- () Registered Health Information Administrator (RHIA). A person currently registered as such by the American Health Information Management Association.
- () Registered Health Information Technician (RHIT). A person currently accredited as such by the American Health Information Management Association.

(Rule 1200-8-1-.01, continued)

- (76) Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.
- ~~(77) Registered Record Administrator (RRA). A person currently registered as such by the American Medical Record Association.~~
- (78) Satellite Hospital. A freestanding hospital licensed with a parent hospital that is on separate premises and operated under the same management.
- (79) Shall or Must. Compliance is mandatory.
- (80) 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.
- (81) 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.
- (82) 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.
- (83) Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board.
- (84) 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.
- (85) Surgical Technologist. A person who currently holds a national certification by the Liaison Council on Certification for the Surgical Technologist (LCC-ST); or has completed a program for surgical technologists accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); or has completed an appropriate training program for surgical technologists in the armed forces; or has successfully completed the LCC-ST certifying exam; or provides sufficient evidence that prior to July 1, 2006, the person began training or was at any time employed as a surgical technologist for not less than eighteen (18) months in a hospital, medical office, surgery center or school.
- (86) Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.
- (87) 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.
- (88) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.
- (89) 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 1200-8-1-.01, continued)

- (90) **Universal Do Not Resuscitate Order.** 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. The Physician Order for Scope of Treatment (POST) form promulgated by the Board for Licensing Health Care Facilities as a mandatory form shall serve as the Universal DNR according to these rules.
- (91) **Unusual Event.** The abuse of a patient or an unexpected occurrence or accident that results in death, life threatening or serious injury to a patient that is not related to a natural course of the patient's illness or underlying condition.
- (92) **Unusual Event Report.** A report form designated by the department to be used for reporting an unusual event.
- (93) **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, and 68-57-102. **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.

1200-8-1-.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.

(Rule 1200-8-1-.06, continued)

2. 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 with the deceased at the place of death;
 3. the nurse is licensed by the state; and
 4. the nurse is employed by the hospital providing services to the deceased.
- (i) Non-employee licensed nurses who are working in the hospital must adhere to the policies and procedures of the hospital. The chief nursing officer must provide for the adequate supervision and evaluation of the clinical activities of non-employee nursing personnel which occur within the responsibility of the nursing service. Annual competency and skill documentation must be demonstrated on these individuals just as employees, if they perform clinical activities.
 - (j) All drugs, devices and related materials must be administered by, or under the supervision of, nursing or other personnel in accordance with federal and state laws and regulations, including applicable licensing requirements, and in accordance with the approved medical staff policies and procedures.
 - (k) 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. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they must 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 hospital policy.
 - (l) Blood transfusions and intravenous medications must be administered in accordance with state law and approved medical staff policies and procedures.
 - (m) There must be a hospital procedure for reporting transfusion reactions, adverse drug reactions, and errors in administration of drugs.
- (5) Medical Records.
- (a) The hospital shall comply with the Tennessee Medical Records Act, T.C.A. §68-11-301, et seq. A hospital shall transfer copies of patient medical records in a timely manner to requesting practitioners and facilities.
 - ~~(b) The hospital must have a medical record service that has administrative responsibility for medical records. The service shall be supervised by a Registered Record Administrator (RRA), an Accredited Record Technician, or a person qualified by work experience. A medical record must be maintained for every individual evaluated or treated in the hospital.~~
 - (b) The hospital must have a medical record service that has administrative responsibility for medical records. The service shall be supervised by a Registered Health Information Administrator (RHIA), a Registered Health Information Technician (RHIT), or a person qualified by work experience. A medical record must be maintained for every individual evaluated or treated in the hospital.

RULES
OF
THE TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200—8—8
REGULATIONS FOR HOME CARE ORGANIZATIONS

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~~1200—8—8—.01 DEFINITIONS.—(Repealed.)~~

- ~~(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 (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.~~~~
- ~~(2) 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.~~
- ~~(3) Board. The Tennessee Board for Licensing Health Care Facilities, established at T.C.A. §§68—11—203.~~
- ~~(4) Clinical Note. A written, dated and signed notation by a member of the health team who made contact with a patient which contains a description of signs and symptoms, treatment and/or drug given, the patient's reaction, and any changes in physical or mental condition. Clinical notes shall be incorporated into the medical record.~~
- ~~(5) Commissioner. The Commissioner of the Tennessee Department of Health and/or his/her authorized representative.~~
- ~~(6) Department. The Tennessee Department of Health.~~
- ~~(7) Dietary Counselor. A dietitian or nutritionist licensed pursuant to T.C.A. §§ 63—25—101, et seq.~~
- ~~(8) Drugs. A legend drug which may only be dispensed by a licensed pharmacy pursuant to a physician's prescription or order.~~
- ~~(9) Duly licensed. Lawfully possessing any license required by state law to practice various professions.~~

(Rule 1200-8-8-.01, continued)

~~(10) Home Care Organization. As defined by T.C.A. §§68-11-201(12) "home care organization" means:~~

~~(a) Any entity which is staffed and organized to provide "home health services", "hospice services" or "home medical equipment services" (as defined by T.C.A. §§68-11-201(15), (18) and (20) and by Rule 1200-48-.01(11), (13) and (18), below) to patients on an outpatient basis in either their regular or temporary place of residence. An entity is a "home care organization" if it does any of the following:~~

- ~~1. Holds itself out to the public as providing home health services, hospice services or home medical equipment services;~~
- ~~2. Contracts or agrees to deliver home health services, or home medical equipment services;~~
- ~~3. Accepts, in the organization's name, physician orders for home health services hospice services or home medical equipment services, or;~~
- ~~4. Accepts responsibility for the delivery of home health services, hospice services or home medical equipment services.~~

~~(b) The absence of one (1) or more of the above factors does not necessarily exclude the entity from the meaning of this definition. If the entity is not included within the previous terms of this definition, the entity shall not be considered to be a "home care organization" solely because it offers to refer individuals who are available for employment by consumers through personal contract or individual agreement to deliver home health services, home medical equipment services or hospice services which is either within the scope of the individual's professional license or is a homemaker service, and which service must be delivered independently of the agency or organization which made the referral.~~

~~(c) The home care organization that holds the license and that develops and maintains administrative controls of home medical equipment branch offices is called the Parent Home Medical Equipment Provider. The parent may also provide services directly. A Branch Home Medical Equipment Provider is defined as one or more locations from which a home care organization provides Home Medical Equipment services. Branch offices of home medical equipment organizations are not required to be separately licensed or charged separate license fees.~~

~~(11) Home Health Service. As defined by T.C.A. §§68-11-201(15) "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 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;~~

(Rule 1200-8-8-.01, continued)

- ~~(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 (a) through (d) above; 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 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.~~
- (12) ~~Home Health and/or 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.~~
- (13) ~~Home Medical Equipment Service. A service provided by any person who sells or rents home medical equipment for delivery to the consumer's place of residence in this state, regardless of the location of the home medical equipment provider.~~
- (14) ~~Home Medical Equipment Provider. Any person who provides "home medical equipment services".~~
- (15) ~~Home Medical Equipment. Medical equipment intended for use by the consumer including but not limited to, the following:~~
 - ~~(a) 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";~~
 - ~~(b) Ambulating assistance equipment other than canes, crutches and/or walkers;~~
 - ~~(c) Mobility equipment, including wheelchairs, power wheelchairs, scooters, and lift devices/chairs;~~
 - ~~(d) Rehabilitation seating, including wheelchair cushions and seating systems;~~
 - ~~(e) Oxygen care equipment and oxygen delivery systems, including concentrators, compressed medical oxygen and liquid oxygen;~~
 - ~~(f) Respiratory care equipment and respiratory disease management devices, including ventilators, apnea monitors, oxygen, diagnostic equipment, aerosol generators, nebulizers, CPAP, BiPAP, suction machines, and percussors;~~
 - ~~(g) Rehabilitation environmental control equipment;~~
 - ~~(h) Ventilator, including electronically operated life sustaining system which performs breathing function for patients;~~
 - ~~(i) Apnea monitors, including devices that monitor respiratory and heart rate(s);~~

(Rule 1200-8-8-.01, continued)

- ~~(j) Diagnostic equipment, including oximeters, spirometers, glucose monitors, and end tidal CO₂ monitors;~~
 - ~~(k) Feeding pumps, including enteral feeding pumps;~~
 - ~~(l) A bed prescribed by a physician to treat or alleviate a medical condition, including standard/electric hospital beds, pressure reduction beds/overlay mattress systems;~~
 - ~~(m) Transcutaneous electrical nerve stimulator, including TENS units;~~
 - ~~(n) Sequential compression devices, including edema reduction pumps; and~~
 - ~~(o) Neonatal home phototherapy devices used in the treatment of hyperbilirubinemia.~~
- ~~(16) Home Medical Equipment does not include:~~
- ~~(a) Medical equipment used or dispensed in the normal course of treating patients by hospitals and nursing facilities, 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;~~
 - ~~(c) Canes, crutches, walkers, and bathtub grab bars;~~
 - ~~(d) Medical equipment provided through a physician's office incident to a physician's service;~~
 - ~~(e) Equipment provided by a pharmacist which is used to administer drugs or medicine that can be dispensed only by a pharmacist; or~~
 - ~~(f) Enteral and parenteral equipment provided by a pharmacist.~~
- ~~(17) Homemaker Service. A 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.~~
- ~~(18) Hospice Services. 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.~~
- ~~(19) 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:~~
- ~~(a) licensed physician, or a~~
 - ~~(b) registered nurse.~~
- ~~(20) Licensed Practical Nurse (L.P.N.). A person who is duly licensed as such by the Tennessee Board of Nursing.~~

(Rule 1200-8-8-.01, continued)

- ~~(21) Licensee. The person or body to whom a license is issued. The licensee is held responsible for compliance with all rules and regulations.~~
- ~~(22) Life Support Equipment. A term synonymous with "life support systems" which for purposes of the licensure exemption allowed for licensed practical nurses (contained at T.C.A. §§68-11-201(15)(H)) means any and all of the following:~~
- ~~(a) Any type of mechanical ventilator.~~
 - ~~(b) Continuous Positive Airway Pressure or Bi-Positive Airway Pressure devices.~~
 - ~~(c) Cardiopulmonary monitors.~~
 - ~~(d) All oxygen delivery devices except nasal cannula.~~
- ~~(23) Manager. Has training and experience in health services management and at least one (1) year of supervisory or management experience in home medical equipment or social work experience in a health care setting.~~
- ~~(24) Master Social Worker. A person who has a master's degree from a school of social work accredited by the Council on Social Work Education, and has one (1) year of social work experience in a health care setting.~~
- ~~(25) Medical Record. The medical record shall contain, at a minimum, documented facts which:~~
- ~~(a) Provide the basis for planning and implementing the patient's care program;~~
 - ~~(b) Reveal the patient's progress and response to treatment;~~
 - ~~(c) Serve as the record of the communication between the professional groups responsible for the patient's care;~~
 - ~~(d) Serve as a repository of data which can be used to review and evaluate the care rendered the patient and thus serve as a tool for staff education; and~~
 - ~~(e) Serve as the basis for legal protection for the patient and all concerned with the care of the patient.~~
- ~~(26) 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.~~
- ~~(27) Patient. Includes, but is not limited to, those suffering from an acute or chronic illness or injury or who are crippled, convalescent or infirm or in need of obstetrical, surgical, medical, nursing or supervisory care.~~
- ~~(28) Physician.~~
- ~~(a) A person who is duly licensed in Tennessee either to practice medicine by the State Board of Medical Examiners or to practice osteopathy by the State Board of Osteopathic Examiners.~~
 - ~~(b) A physician or osteopath who is not licensed to practice medicine in Tennessee but is duly licensed to practice medicine in a state contiguous to Tennessee may refer~~

(Rule 1200-8-8-.01, continued)

~~a patient residing in this state to a home care organization duly licensed under these regulations, however, nothing in this part shall be construed as authorizing an unlicensed physician or osteopath to practice medicine in violation of T.C.A. §§ 63-6-201 or 63-9-104, respectively; and such a physician or osteopath shall have previously provided treatment to that patient, and shall have had an ongoing relationship with the person for whom the referral is to be made.~~

- (29) ~~Progress Note. A progress note is a written notation, dated and signed by a member of the health team to document a change in the patient's medical status. A progress note must be incorporated in the medical record.~~
- (30) ~~Registered Nurse (R.N.). A person duly licensed as such by the Tennessee Board of Nursing.~~
- (31) ~~Representative. An individual who has been authorized under state law (i.e., legal guardian, or attorney in fact under a durable power of health care pursuant to T.C.A. §§34-6-201, et seq.) to make medical decisions on behalf of a terminally ill individual who is mentally or physically incapacitated.~~
- (32) ~~Residential Hospice. A licensed homelike residential facility which provides hospice services. A residential hospice shall not provide hospice services to any person other than a hospice patient.~~
- (33) ~~Shall or Must. Where the word "shall" or "must" is used, compliance is mandatory.~~
- (34) ~~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.~~
- (35) ~~Social Worker. A person who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education and has at least one (1) year of social work experience in a health care setting.~~
- (36) ~~Spiritual Counselor. A person who has met the requirements of a religious organization to serve the constituency of that religious organization.~~
- (37) ~~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. The supervisor must be on the premises if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these regulations.~~
- (38) ~~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.~~
- (39) ~~Therapist. A certified respiratory therapy technician pursuant to T.C.A. §§63-6-407; a licensed physical therapist pursuant to T.C.A. §§63-13-301, et seq.; an occupational therapist pursuant to T.C.A. §§63-13-201, et seq.; a respiratory care therapist pursuant to T.C.A. §§63-6-406; a speech pathologist and/or audiologist pursuant to T.C.A. §§63-17-101, et seq.; a licensed psychologist pursuant to T.C.A. §§63-11-201, et seq.; or a social worker pursuant to T.C.A. §§63-23-101, et seq.~~
- (40) ~~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.~~

(Rule 1200-8-8-.01, continued)

- ~~(41) Written Policy. Whenever the rules and regulations 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. A home care organization which violates a required policy also violates the regulation establishing the requirement. Licensed home care organizations must follow all policies, plans, procedures, techniques, or systems whose development is required by these rules.~~

Authority: T.C.A. §§4—5—202, 68—11—201, 4—5—208, 68—11—202, 68—11—204, and 68—11—209. **Administrative History:** Original rule filed December 1, 1975; effective December 30, 1975. Amended and new rule filed July, 22, 1976; effective August 21, 1976. Repeal and new rule filed February 9, 1989; effective March 26, 1989. Amendment filed March 4, 1993; effective April 18, 1993. Amendment filed June 9, 1994; effective August 23, 1994. Repeal and new rule filed April 25, 1996; effective July 9, 1996. Amendment filed December 13, 1996; effective February 26, 1997. Amendment filed May 28, 1998; effective August 11, 1998.

~~1200—8—8—.02 APPLICATION FOR A LICENSE. (Repealed.)~~

- ~~(1) The Board in its discretion, shall be authorized to issue licenses to the licensees in such form as it may deem necessary.~~
- ~~(2) Any entity, in order to lawfully establish, conduct, operate or maintain a home care organization in Tennessee, shall obtain a license from the Department, upon the approval and recommendation of the Board, in the following manner~~
- ~~(a) The applicant shall request that the Department conduct a survey of the organization to determine whether the minimum standards for a home care organization are met.~~
- ~~(b) If the home care organization meets the minimum standards for a home care organization, the applicant for a license shall furnish, on a form provided by the Department, information attesting that the applicant will conduct the home care organization in accordance with the minimum standards and regulations adopted by the Board and the Department. Such attestation shall be given in the form of a sworn affidavit, provided as part of the application, and shall be a prerequisite to licensing.~~
- ~~The submission of false information by any applicant in said affidavit shall constitute grounds for the denial or revocation of a license. The use of subterfuge or other evasive means such as filing for a license through a second party when an individual has been disqualified for licensure shall constitute grounds for the denial or revocation of a license.~~
- ~~(c) The Board may approve the issuance of a license upon the application without further evidence; or in its discretion, it may have a hearing on the application and conduct its own investigation, to determine whether or not a license should be granted.~~
- ~~(d) If, after a hearing, the Board finds that the applicant complies and will in the future comply with the provisions of the law and the minimum standards and regulations promulgated herein, the Board shall approve the, issuance of a license.~~
- ~~(e) If, after a hearing, the Board finds that a license should not be granted, it shall so notify the applicant. Any licensee, or applicant for a license, aggrieved by the action~~

(Rule 1200-8-8-.02, continued)

~~of the Board or the Department may appeal from such action to the chancery court as provided for by T.C.A. §§68-11-206, 68-11-208 and 4-5-322.~~

~~(3) License Information~~

- ~~(a) Every home care organization, applying for a license, shall designate a distinctive name for the organization. The name of a home care organization shall not be changed without first notifying the Department in writing.~~
- ~~(b) A license shall be issued only to the home care organization, for a designated location and to the person or entity named in the application for licensure. Licenses are not transferable or assignable.~~
- ~~(c) A separate license shall be required for each home care organization.~~
- ~~(d) The home care organization shall maintain an office with a working telephone and be staffed during normal business hours.~~
- ~~(e) Any change in services provided by the home care organization shall be reported to the Department within fifteen (15) days of the implementation of such services.~~
- ~~(f) A home care organization shall have a duly qualified administrator or manager (home medical equipment) accessible during normal operating hours. Any change of administrator or manager (home medical equipment) shall be reported to the Department within fifteen (15) days.~~
- ~~(g) An administrator shall serve no more than one (1) licensed home care organization, unless the administrator is over a home care organization which provides hospice, home health and/or home medical equipment at the same location.~~
- ~~(h) The license shall be conspicuously posted in the home care organization.~~
- ~~(i) The Department shall be notified thirty (30) days prior to any change of address and/or location.~~
- ~~(j) The issuance of an application form is in no way a guarantee that the completed application will be acceptable or that a license will be issued by the Department.~~
- ~~(k) Annual Report. A yearly statistical report, the "Joint Annual Report of Home Care Organizations", shall be submitted to the Department. The forms are mailed to each home care organization by the Department each year. The forms must be completed and returned to the Department as requested.~~

~~(4) License Fee~~

- ~~(a) Each home care organization making application for license, except those operated by the U.S. Government or the State of Tennessee, shall pay annually to the Board for Licensing Health Care Facilities a fee of four hundred dollars (\$400). The fee shall be submitted with the application.~~
- ~~(b) Any applicant who files during the fiscal year must pay the full license fee. When the Board declines to issue a license to an applicant the full license fee paid will be refunded. No fee will be refunded when a license is used less than the fiscal year.~~

~~(5) Expiration and Renewal of License~~

(Rule 1200-8-8-.02, continued)

- ~~(a) A license to operate a home care organization is issued on a fiscal year basis beginning July 1st and expiring the following June 30th.~~
- ~~(b) The renewal of a license shall be contingent upon evidence of continued compliance with all minimum standards and regulations.~~
- ~~(c) An application form for the renewal of the license will be mailed by the Department to each home care organization prior to renewal. The renewal application form shall be completed and returned with the required license fee as instructed by the Department before July 1. The organization owner, administrator, or manager (home medical equipment) shall make application for initial licensing and application for relicensing annually. Late applicants will be required to appear before the Board to apply for renewal.~~
- ~~(d) Upon change of ownership the existing license is terminated. The new owner is required to submit to the Department an application with the licensing fee, be surveyed and meet the applicable standards and regulations, and be approved for a license. Any change of ownership shall be reported to the Department and a new application for licensure submitted at least thirty (30) days before the change is to be implemented. Violation of such shall result in the facility having to appear before the Board.~~
- ~~(e) Change of ownership or controlling ownership must be reported to the Health Care Facilities Licensing Section a minimum of thirty (30) days prior to ownership changes to allow for an on-site inspection by appropriate authorities. An application and fee must be received by the Department before a license will be issued.
 - ~~1. For the purpose of licensing, the "owner" of a home care organization has the ultimate responsibility for the operation of the organization, including the final authority to make or control operational decisions and legal responsibility for the business management. A "change of ownership" occurs whenever this ultimate legal authority to control the activities and policies of the home care organization is transferred to another individual, group, or legal entity.~~
 - ~~2. A "change of ownership" also occurs whenever there is a change in the legal form under which the controlling entity is organized.~~
 - ~~3. Transactions constituting a change of ownership include, but are not limited to, the following:
 - ~~(i) Sale or donation of the organization's legal title;~~
 - ~~(ii) Lease of the entire organization's real and personal property;~~
 - ~~(iii) A sole proprietor becomes a member of a partnership or corporation, which succeeds the proprietor as the new operator;~~
 - ~~(iv) Dissolution of a partnership;~~
 - ~~(v) One partnership is replaced by another through the removal, addition or substitution of a partner;~~
 - ~~(vi) A general partnership becomes a limited partnership, or a limited partnership becomes general;~~~~~~

(Rule 1200-8-8-.02, continued)

- ~~(vii) Two (2) or more corporations merge and the originally-licensed corporation does not survive;~~
 - ~~(viii) Corporations consolidate;~~
 - ~~(ix) A non-profit corporation becomes a general corporation, or a for-profit corporation becomes non-profit;~~
 - ~~(x) Transfers between levels of government.~~
4. ~~Transactions which do not constitute a change of ownership include, but are not limited to, the following:~~
- ~~(i) Changes in the membership of a corporate board of directors or board of trustees;~~
 - ~~(ii) Two (2) or more corporations merge and the originally-licensed corporation survives;~~
 - ~~(iii) Changes in the membership of a non-profit corporation;~~
 - ~~(iv) Transfers between departments of the same level of government;~~
 - ~~(v) Corporate stock transfers or sales, even when a controlling interest.~~
 - ~~(vi) Management agreements are generally not changes of ownership if the former owner continues to retain policy responsibility, must approve or concur in decisions involving the home care organization's operation, and retains legal liability for some claims that may be filed against the organization. However, if these ultimate legal responsibilities, authorities and liabilities are surrendered and transferred from the former owner to the new manager, then a change of ownership has occurred.~~
 - ~~(vii) Sale/lease-back agreements will not be treated as changes in ownership if the lease involves the organization's entire real and personal property and if the identity of the lessee, who will continue the operation, retains the exact same legal form as the former owner.~~
- ~~(6) Suspension or Revocation of License - The Board may suspend or revoke a license issued hereunder on any of the following grounds, in accordance with the procedures outlined in T.C.A. §§68-11-207.~~
- ~~(a) Violation of any of the provisions of T.C.A. §§68-11-201, et seq., or of the rules, minimum standards and regulations contained in this Chapter, 1200-8-8.~~
 - ~~(b) Permitting, aiding or abetting the commission of any illegal act in such organizations.~~
 - ~~(c) Conduct or practice found by the Board to be detrimental to the welfare of the patients of such organizations.~~
 - ~~(d) Fraudulent practice in obtaining a license.~~

(Rule 1200-8-8-.02, continued)

~~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. §§4-5-301, et seq.~~

- ~~(7) No organization 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, Adult Protective Services, the Comptroller of the State Treasury, the Long Term Care Ombudsman, or other agency having jurisdiction. An organization 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.~~
- ~~(8) The organization 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 organization. The organization shall protect the civil rights of patients under the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and under the Americans with Disabilities Act of 1990.~~

Authority: T.C.A. §§4-5-202, 68-11-202, 68-11-204, 68-11-206 through 68-11-209. **Administrative History:** Original rule filed December 1, 1975; effective December 30, 1975. Repeal and new rule filed February 9, 1989; effective March 26, 1989. Repeal and new rule filed April 25, 1996; effective July 9, 1996. Amendment filed May 28, 1998; effective August 11, 1998.

~~**1200-8-8-.05 PROCEDURES FOR THE WITHHOLDING OF RESUSCITATION SERVICES**~~
(Repealed.)

- ~~(1) Purpose. To provide procedures for Health Care Facilities to follow with respect to the withholding or withdrawing of resuscitative services from patients, and to assure that such procedures are followed by all Health Care Facilities, while maintaining the rights of the patient.~~
- ~~(2) Applicability. These regulations shall be applicable to all Health Care Facilities licensed by the Board for Licensing Health Care Facilities pursuant to T.C.A. §§68-11-202.~~
- ~~(3) Definitions. The terms used in these regulations shall have the following meanings, unless specifically indicated to the contrary:~~
- ~~(a) Treating Physician. The duly licensed 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."~~
- ~~(b) Cardiopulmonary Resuscitation (CPR)– The administering of any means or device to restore or support resuscitative functions in the 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 resuscitation, or otherwise, which is intended to restore cardiac and/or respiratory functions in a patient where cardiac or respiratory arrest has occurred or is believed to be imminent.~~

(Rule 1200-8-8-.05, continued)

- ~~(c) 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.~~
 - ~~(d) Health Care Facility — Any facility providing health care-related services to patients which is subject to licensure by the Tennessee Board for Licensing Health Care Facilities pursuant to T.C.A. §§68—11—202 or any successor statute hereto.~~
 - ~~(e) Competent — A patient who has decision-making capacity.~~
 - ~~(f) Incompetent — A patient who is not competent having been determined to be so by the proper legal authorities, or having been determined to be incompetent by the attending physician and the medical director, or the attending physician and another physician.~~
 - ~~(g) Legal Guardian — Any person authorized to act for the patient pursuant to any provision of T. C.A. Title 34, including but not limited to, a guardian as defined in T.C.A. §§34—4—103(3) or 34—5—102(4), or any successor statute thereto.~~
 - ~~(h) Medically Futile Treatment — Resuscitation efforts should be considered futile if they 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.~~
 - ~~(i) Medical Record — Any record concerning the patient as defined in T.C.A. §§68—11—302 or any successor statute thereto; provided, however, the term "hospital" shall be read to mean any health care facility.~~
 - ~~(j) Patient — Any person receiving care or treatment in or from a health care facility.~~
 - ~~(k) Resuscitative Services — See Cardiopulmonary Resuscitation.~~
 - ~~(l) Surrogate — The patient's legal guardian, 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.~~
- ~~(4) Patient Rights.~~
- ~~(a) 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.~~
- ~~(5) Policies and Procedures.~~
- ~~(a) Each home care organization shall maintain and establish policies and procedures which allow for the withholding of cardiopulmonary resuscitative measures from individual patients. The procedures for determining when the services may be withheld must respect the patient's rights of self-determination. The organization must inform the patient of the policies and procedures upon admission or at such time as may be appropriate.~~

(Rule 1200-8-8-.05, continued)

- ~~(b) All patients shall be presumed as having consented to cardiopulmonary resuscitation unless there is documentation in the medical record that the patient has specified that a DNR order be written. Do not resuscitate orders may be written to exclude any portion of the cardiopulmonary resuscitation measures deemed to be unacceptable.~~
- ~~(c) In the case of an incompetent patient who has appointed an attorney in fact to act on his or her behalf pursuant to an advance directive, documentation in the medical record must reflect that the attorney in fact has specified that a DNR order be written.~~
- ~~(d) In the case of an incompetent patient who has not appointed an attorney in fact to act on his or her behalf pursuant to an advance directive, documentation in the medical record must reflect that the patient's surrogate and the patient's treating physician have mutually specified that a DNR order be written.~~
- ~~(e) For a patient incompetent upon admission who has not appointed an individual to act on his or her behalf pursuant to an advance directive, the organization should obtain from the family or responsible party the name of the surrogate who will be responsible, along with the treating physician, for deciding on the issuance of a DNR order.~~
- ~~(f) All DNR orders must be accompanied by documentation in the medical record stating when the decision was made and who was involved in the decision-making process.~~
- ~~(g) CPR may be withheld from the patient if in the judgment of the treating physician an attempt to resuscitate would be medically futile. Withholding and withdrawal of resuscitative services shall be regarded as identical for the purposes of these regulations~~
- ~~(h) Procedures for periodic review of DNR orders must be established and maintained. The organization must have procedures for allowing revocation or amending DNR orders by the patient, the attorney in fact, the surrogate, or treating physicians. Such change will be documented in the medical record.~~
- ~~(i) Any treating physician who refuses to enter an order not to resuscitate in accordance with provisions set forth above, or to comply with an order not to resuscitate, shall promptly advise the patient, the attorney in fact, or the surrogate of this decision. The treating physician shall then 1) make a good faith attempt to transfer the patient to another physician who will honor the DNR order, and 2) permit the patient to obtain another physician.~~
- ~~(j) Each organization shall establish, and set forth in writing, a mediation process to deal with any dispute regarding orders not to resuscitate. This mediation process, which should utilize patient advocates, ombudsman, clergy, social workers, physicians, ethicists, or other existing resources, shall mediate in the event of disputes arising from the withholding of resuscitative services.~~

Authority: T.C.A. §§4—5—202, 68—11—202, 68—11—209, and 68—11—224. **Administrative History:** Original rule filed December, 1975; effective December 30, 1976. Repeal and new rule filed February 9, 1989; effective March 26, 1989. Repeal and new rule filed April 25, 1996, effective July 9, 1996.

1200—8—8—.06 REPEALED.

(Rule 1200-8-8-.06, continued)

Authority: T.C.A. §§ 4—5—202, 68—11—202, and 68—11—209. **Administrative History:** Original rule filed May 28, 1998; effective August 11, 1998. Repeal filed August 24, 2000; effective November 7, 2000.