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Sequence Number: 09-26-13
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File Date: 9/17/13

Notice of Rulemaking Hearing

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

Agency/Board/Commission:	Department of Health
Division:	Bureau of Health Licensure and Regulation Division of Health Care Facilities
Contact Person:	Diona E. Layden, Deputy General Counsel
Address:	665 Mainstream Drive, Tennessee 37243
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

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

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

Address 1:	Metro Center	
Address 2:	665 Mainstream Drive, Iris Conference Room	
City:	Nashville, Tennessee	
Zip:	37228	
Hearing Date :	01/22/2014	
Hearing Time:	9:00 a.m.	_X_CST/CDT ___EST/EDT

Additional Hearing Information:

Revision Type (check all that apply):

___ Amendment
_X_ New
___ Repeal

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

Chapter Number	Chapter Title

1200-08-37	Traumatic Brain Injury Residential Homes
Rule Number	**Rule Title**
1200-08-37-.01	Definitions
1200-08-37-.02	Licensure and Renewal
1200-08-37-.03	Fees
1200-08-37-.04	Regulatory Standards
1200-08-37-.05	Administration
1200-08-37-.06	Services Provided
1200-08-37-.07	Admissions, Discharges, and Transfers
1200-08-37-.08	Personal and Health Care Needs
1200-08-37-.09	Resident Records
1200-08-37-.10	Facility Standards
1200-08-37-.11	Building Standards
1200-08-37-.12	Life Safety
1200-08-37-.13	Infections and Hazardous Waste
1200-08-37-.14	Reports
1200-08-37-.15	Resident Rights
1200-08-37-.16	Policies and Procedures for Health Care Decision-Making
1200-08-37-.17	Disaster Preparedness
1200-08-37-.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)

NEW RULES

CHAPTER 1200-08-37
TRAUMATIC BRAIN INJURY RESIDENTIAL HOMES

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1200-08-37-.01 Definitions.

(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 (ADL's)" means those activities which indicate a resident's independence in eating, dressing, personal hygiene, bathing, toileting, ambulating, and medication management.

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

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

(5) "Administrator" means a person twenty-one (21) years of age or older who oversees the day-to-day operation of the TBI residential home on behalf of the TBI residential home provider. An Administrator shall hold national certification by the Academy of Certified Brain Injury Specialists as a Certified Brain Injury Specialist (CBIS) or hold a current license as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care of and rehabilitation of residents with traumatic brain injury.

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

(7) "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 TBI residential home can adequately address

those problems, meet those needs, and secure information for the use in the development of the individual care plan.

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

(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.

(10) "CBIS" means a Certified Brain Injury Specialist who is certified by the Academy of Certified Brain Injury Specialists.

(11) "Disabled" means a resident who suffers from the effects of a traumatic brain injury.

(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.

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

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

(15) "Exploitation" shall have the same meaning as set forth in T.C.A. § 68-11-1002.

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

(17) "Health care decision" means a resident's consent, refusal of consent, or withdrawal of consent to health care.

(18) "Health care decision-maker" means, 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 resident's designated physician pursuant to T.C.A. § 68-11-1802(a)(4).

(19) "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.

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

(21) "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 T.C.A. §§ 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 medical services personnel.

(22) "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 "TBI residential home provider."

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

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

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

(26) "Neglect" means the failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness.

(27) "Occupant" means anyone residing in or using a TBI residential home.

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

(30) "Resident" means an adult residing at the TBI residential home who suffers from the effects of a traumatic brain injury.

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

(32) "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 home; or abusing or threatening to harass or abuse a resident in any manner.

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

(34) "Specialized services" means services provided to residents suffering from the effects of a traumatic brain injury.

(35) "Supervising health care provider" means the health care provider who has undertaken primary responsibility for a resident's health care.

(36) "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.

(37) "Traumatic brain injury (TBI)" 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.

(38) "Traumatic brain injury residential home" means a single family residence owned and operated by a community-based traumatic brain injury (TBI) adult care home provider in which residential care, including assistance with activities of daily living, is provided in a homelike environment to no more than eight (8) disabled adults suffering from the effects of a traumatic brain injury as defined in T.C.A. § 68-55-101.

(39) "Traumatic brain injury residential home provider" means a person who is twenty-one (21) years of age or older that owns and operates a TBI residential home. A traumatic brain injury residential home provider shall hold national certification by the Academy of Certified Brain Injury Specialists as a Certified Brian Injury Specialist (CBIS) or hold a current professional license as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional, or licensed mental health professional who is trained and experienced in the care and rehabilitation of disabled adults suffering from the effects of a traumatic brain injury.

(40) "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.

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

1200-08-37-.02 Licensure and Renewal.

(1) Licensure. An applicant for a TBI residential home 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 TBI residential home 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 TBI residential home. If the applicant is a corporation or a limited liability company the applicant must submit a certificate of good standing;

(g) Proof of liability insurance; and

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

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

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

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

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

(6) Renewal. TBI residential home licenses expire annually on the anniversary date of their original issuance and must be renewed by that date.

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

(b) Should the licensee fail to renew its license prior to the expiration date, yet within sixty (60) days after the expiration date, the licensee shall pay the licensure renewal fee and a late renewal penalty fee of one hundred dollars ($100.00) per month for each month or fraction of a month that renewal is late; provided that the late renewal penalty fee shall not exceed twice the licensure renewal fee.

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

1. A completed application for licensure; and

2. The license fee provided in Rule 1200-08-37-.03(1).

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

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

(8) A separate license shall be required for each TBI residential home when more than one TBI residential home is operated by a TBI residential home provider.

(9) Before a second license is granted to a TBI residential home provider the applicant shall:

(a) Operate a licensed TBI residential home for a period of at least one year;

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

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

(d) Submit a separate application to the Board.

(10) Before any additional licenses are granted to a TBI residential home provider the applicant shall:

(a) Operate two (2) licensed TBI residential homes for a consecutive period of at least one year;

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

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

(d) Submit a separate application to the Board.

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

(12) Any admission of residents to a single TBI residential home in excess of eight (8) disabled residents is prohibited.

(13) Change of Ownership.

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

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

1. A completed change of ownership application on a form approved by the Board which includes all information required by Rule 1200-08-37-.02(1)(a);

2. Nonrefundable application fee;

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

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

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

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

7. Comprehensive business plan for the first two years of operation;

8. Proof of liability insurance; and

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

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

1. Transfer of the TBI residential home's legal title;
2. Lease of the TBI residential home's operations;

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

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

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

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

7. The consolidation of a corporate TBI residential home owner with one or more corporations; or

8. Transfers between levels of government.

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

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

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

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

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

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

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

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

(14) Qualification and Training Requirements.

(a) Qualifications for a TBI residential home provider serving residents suffering from the effects of a traumatic brain injury.

1. A TBI residential home provider serving residents with traumatic brain injury shall hold national certification by the Academy of Certified Brain Injury Specialists as a Certified Brain Injury Specialist (CBIS) or hold a current license as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care and rehabilitation of residents with traumatic brain injury, or shall employ an Administrator who meets the qualifications specified in Rule 1200-08-37-.02(14)(a)(2).

2. An Administrator for a TBI residential home serving residents with traumatic brain injury shall hold national certification by the Academy of Certified Brain Injury Specialists as a Certified Brain Injury Specialist (CBIS) or hold a current license as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care and rehabilitation of residents with traumatic brain injury.

3. Staff members providing overnight care and/or supervision of residents in a TBI residential home shall hold national certification by the Academy of Certified Brain Injury Specialists as a Certified Brain Injury Specialist (CBIS) or hold a current license as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care and rehabilitation of residents with traumatic brain injury and shall demonstrate competency in caring for persons with traumatic brain injury.

(b) Training. The TBI residential home provider is responsible for the supervision, training and overall conduct of the Administrator and TBI residential home staff as it relates to their job performance and responsibilities. The TBI residential home provider shall:

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

2. Orient all staff to the home including the location of any fire extinguishers; demonstration of evacuation procedures; location of residents' records; location of telephone numbers for the residents' physicians and other emergency contacts; location of medications and keys for medication cabinets, if applicable; instructions for caring for each resident; and delegation by a registered nurse for nursing tasks, if applicable.

3. Train the Administrator and TBI residential home staff on the health care tasks that can be administered through self-administration.

(15) Continuing Education.

(a) All TBI residential home providers and Administrators shall complete annually twelve (12) hours of continuing education related to the following topics:

1. Care of elderly persons;

2. Care of persons with disabilities;

3. Business operations of TBI residential homes; and

4. State rules and regulations for TBI residential homes.

(b) Continuing education hours offered by and/or approved by the Academy of Certified Brain Injury Specialists regarding care of elderly persons, care of persons with disabilities, and business operations of TBI residential homes will be accepted towards the twelve (12) hour continuing education requirement.

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

1200-08-37-.03 Fees.

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

1200-08-37-.04 Regulatory Standards.

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

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

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

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

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

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

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

(4) Plan of Correction. When Department of Health inspectors find that a TBI residential home has committed a violation of this chapter, including a violation(s) resulting in a suspension of admissions, the Department of Health, as the Board's representative, will issue a statement of deficiencies to the TBI residential home. Within ten (10) days of receipt of the statement of deficiencies, the TBI residential home must return a plan of correction including the following:

(a) How the deficiency will be corrected;

(b) The date upon which each deficiency will be corrected;

(c) What measures or systemic changes will be put in place to ensure that the deficient practice does not recur; and

(d) How the corrective action will be monitored to ensure that the deficient practice does not recur.

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

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

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

Violation	Penalty
Failure to have adequate staffing.	$ 500 - $5000
Failure to maintain personal and medical records.	$ 0 - $1000
Failure to provide appropriate medical and other professional services.	$ 0 - $1000
Failure to provide appropriate non-medical living	

assistance services (assistance with ADLs).	$ 0 - $1000
Failure to create and/or maintain a plan of care.	$ 0 - $1000
Failure to conduct an admission assessment.	$ 0 - $1000
Failure to abide by applicable fire safety. regulations	$ 0 - $1000
Admitting residents over the licensed capacity.	$ 500 - $1000
Admission or retention of inappropriately placed resident. T.C.A. § 68-11-213(i)(2) (Each resident shall constitute a separate violation.)	$ 0 - $3000
Operating a TBI residential home without required license. T.C.A. § 68-11-213(i)(1) (Each day of operation shall constitute a separate violation)	$1000 - $5000

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

(a) Willfulness of the violation.

(b) Repetitiveness of the violation.

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

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

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

(10) Reconsideration and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to Rule 1360-04-01-.18 regarding petitions for reconsiderations and stays in that case.

1200-08-37-.05 Administration.

(1) Each TBI residential home shall meet the following staffing standards:

(a) A TBI residential home provider shall employ an Administrator to oversee the day-to-day operation of the TBI residential home when the TBI residential home provider is unavailable. The Administrator shall meet the education, experience and training requirements of a TBI residential home provider required by the Board.

(b) A TBI residential home provider shall employ staff members to supervise the residents at all times while in the home, including overnight and during weekends. Staff members providing overnight care and/or supervision shall hold national certification by the Academy of Certified Brain Injury Specialists as a Certified Brain Injury Specialist (CBIS) or hold a current license as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed

mental health professional trained and experienced in the care of and rehabilitation of residents with traumatic brain injury.

(c) A TBI residential home provider is not required to live in the home or to employ a resident manager or a substitute caregiver to live in the home.

(d) TBI residential home staff shall:

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

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

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

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

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

6. Be at least eighteen (18) years of age.

(e) A TBI residential home shall employ a qualified dietitian, full time, part-time, or on a consultant basis.

(f) A TBI residential home shall not employ an individual listed on the Abuse Registry maintained by the Department of Health.

(2) Each TBI residential home shall meet the following procedural standards:

(a) Policies and Procedures:

1. A TBI residential home shall have a written statement of policies and procedures outlining the TBI residential home's responsibilities to its residents, any obligation residents have to the home, and methods by which residents may file grievances and complaints.

2. A TBI residential home provider 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. A TBI residential home provider 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 TBI residential home that violates its own policy established as required by these rules and regulations also violates the rules and regulations establishing the requirement.

4. A TBI residential home provider shall develop a written policy and procedure governing smoking practices of residents.

(i) Residents of the home are exempt from the smoking prohibition.

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

5. A TBI residential home shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.

(b) Resident grievances:

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

   (i) Complaints regarding suspected abuse, neglect, misappropriation of patient/resident property, or exploitation shall be reported to adult protective services;

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

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

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

3. The TBI residential home provider shall forward all complaints to the appropriate state oversight entity.

4. The TBI residential home provider shall not prohibit or discourage the filing of complaints or use intimidation against any person for filing a complaint.
5. The TBI residential home provider shall not retaliate against the resident or the person acting on behalf of the resident in any way.

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

(c) Allegations of abuse, neglect, misappropriation of patient/resident property, or exploitation: A TBI residential home shall place a TBI residential home provider, an Administrator, or TBI residential home staff against whom an allegation of abuse, neglect, misappropriation of patient/resident property, or exploitation has been made on administrative leave of absence until the investigation conducted by the appropriate state entity is complete.

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

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

(f) No person associated with the licensee or TBI residential home shall act as a court-appointed guardian, trustee, or conservator for any resident of the TBI residential home or any of such resident's property or funds.

(3) A TBI residential home shall post the following at the main public entrance or other equally prominent place in the TBI residential home:

(a) A statement that a resident who may be the victim of abuse, neglect, misappropriation of patient/resident property, 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 (11") inches in width and seventeen (17") inches in height. (This same information shall be provided to each resident in writing upon admission to any home.)

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

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

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

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

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

(4) Infection Control.

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

(b) A TBI residential home shall have an annual influenza vaccination program which shall include at least:

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

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

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

(i) Influenza 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 TBI residential home provider in the event of a vaccine shortage.

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

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

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

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

4. Health care worker education programs which may include:

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

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

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

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

(d) A TBI residential home provider shall develop and implement a system for measuring improvements in adherence to the hand hygiene program and influenza vaccination program.

(5) A TBI residential home 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 TBI residential home on the grounds of race, color, national origin, or handicap. A TBI residential home shall protect the civil rights of residents under the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.

1200-08-37-.06 Services Provided.

(1) Each TBI residential home shall provide twenty-four (24) hour staffing coverage that is adequate to meet the needs of residents. This will include both the residences and the day service facility under separate license, if any. Staffing and clinical expertise should correspond to the residents being served. TBI residential home providers shall coordinate with primary care physicians, specialists, and other health care professionals as appropriate.

(2) Traumatic brain injury residential home providers shall provide community-based care for their residents in addition to residential care, as provided in the resident's plan of care. During weekdays, the residents shall be provided day services through a separate facility licensed by the state. On weekends, the residents shall participate in community activities, including, but not limited to, church attendance, visits to local parks, and other recreational activities of their choice or the choice of their family or legal representatives, as provided in the resident's plan of care.

(3) As an alternative to the licensing condition of off-site day services, a TBI residential home serving only private pay or private insurance residents may provide day services for the residents on site as part of the comprehensive services provided.

(4) Medical services in a TBI residential home, when needed, shall be provided by:

(a) Appropriately licensed staff of a TBI residential home;

(b) Appropriately licensed or qualified contractors of a TBI residential home;

(c) A licensed home care organization; or

(d) Another appropriately licensed entity.

(5) Standards for Medication Administration. A TBI residential home 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 locked storage container.

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

(6) A TBI residential home 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 person(s) designated in the home's medical 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.

(c) The home shall properly dispose of prescription medication administered by the home in accordance with the home's medication disposal policy.

(d) The home may dispose of prescription medication that is self-administered by the resident in accordance with the home's medication disposal policy or 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) Any scheduled drug that is misbranded, expired, deteriorated, not kept under proper conditions, or kept in containers with illegible or missing labels shall be disposed of within forty-eight (48) hours by a licensed or certified professional in the presence of another licensed or certified professional. The home shall keep a written log signed by the persons disposing of the drugs according to this rule.

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

(7) A TBI residential home shall provide residential care to its residents as follows:

(a) Each TBI residential home shall provide each resident with at least the following residential care:

1. Protective care;

2. Safety when in the TBI residential home;

3. Daily awareness of the resident'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. A TBI residential home shall:

1. Provide laundry equipment and supplies necessary for the cleaning of TBI residential home 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. A TBI residential home provider shall provide three (3) nutritionally balanced meals per day or shall make arrangements for meals on an as needed basis. Meal planning and preparation shall take into consideration any special dietary needs of the resident, as prescribed by his or her physician.

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. A TBI residential home provider shall designate a person responsible for the food service, including the purchasing of adequate food supplies and the maintenance of sanitary practices in good storage preparation and distribution. Sufficient arrangements or employees shall be maintained to cook and serve the food.

6. A TBI residential home provider may contract with an outside food management company if the company has a dietitian who serves the TBI residential home 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 TBI residential home for recommendations on dietetic policies affecting resident treatment.

7. A TBI residential home shall have a current therapeutic diet manual approved by a dietitian readily available to all TBI residential home personnel.

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

9. A TBI residential home 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.

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

1200-08-37-.07 Admissions, Discharges, and Transfers.

(1) Admissions.

(a) A TBI residential home may only admit and continue to care for residents requiring specialized services, where assistance is provided with ADL's in a homelike environment.

(b) A TBI residential home may not admit or serve a resident who is ventilator dependent..

(c) A TBI residential home may serve up to eight (8) disabled adults, who suffer from the effects of a traumatic brain injury and who are unrelated to the TBI residential home provider by blood or marriage.

(d) A TBI residential home provider may choose to serve one (1) or more elderly adult members of their own family as long as the TBI residential home provider serves at least two (2) additional disabled adults unrelated to the TBI residential home provider by blood or marriage. In no event shall a TBI residential home provider serve more than eight (8) disabled residents in the licensed TBI residential home.

(e) A TBI residential home may not admit or retain a resident who cannot be evacuated within five (5) minutes.

(f) A TBI residential home shall upon admission of a resident:

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

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

3. Provide to each resident a written admission agreement signed and dated by the TBI residential home provider and the resident or the resident's family member or the resident's legal 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 scheduled, including any payment for services for which the resident will be responsible;

(iii) An accurate written statement providing that the TBI residential 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 for services which includes involuntary discharge from the TBI residential home;

(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.

(vii) A copy of the medication disposal policy.

4. Disclose in writing to the resident or to the resident's legal representative, the identity of the TBI residential home's primary liability insurance carrier. If the TBI residential home 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 or the resident's legal representative 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 or the resident's legal representative; and

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 as the time of vaccination, unless such vaccination is medically contraindicated or the pneumococcal vaccination of residents who have not received this immunization prior to or on admission unless the resident refuses offer of the vaccine.

(2) Discharges and Transfers.

(a) Residents may only be moved, transferred or discharged from a TBI residential home for the following reasons:

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

2. Welfare of the resident or of other residents. This includes, but is not limited to the following: The TBI residential home 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 for services provided to the resident by the home; or

4. Closing or selling the home.

(b) A TBI residential home 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 TBI residential home cannot safely and effectively meet the resident's needs, including medical services.

(c) The Board may require that a TBI residential home 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 TBI residential home.

(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 for services provided to the resident by the home, the TBI residential home provider shall give the resident, the resident's family member, or the resident's legal representative 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 TBI residential home provider shall work with the Board to develop a transition plan in order to maintain continuity of care for the resident and to minimize the impact of the transition. The TBI residential home provider shall assist the resident in locating an alternate appropriate setting.

(f) In the case of a medical emergency that requires immediate action, the TBI residential home provider shall give the resident, the resident's family member, or the resident's legal representative written notice as soon as possible under the circumstances.

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

(h) In the event of discharge or transfer due to the closing of the home, the TBI residential home provider shall provide ninety (90) days advance notice to residents and shall work with the Board to develop a transition plan to maintain continuity of care for the residents and to minimize the impact of transition. The TBI residential home shall assist each resident in locating an alternative placement.

1200-08-37-.08 Personal and Health Care Needs.

(1) A TBI residential home 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) Health care needs;

(e) Nutritional needs;

(f) Activities; and

(g) Lifestyle preferences.

(2) A TBI residential home 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 TBI residential home 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 treating physician; or other licensed health care professionals or entity delivering patient services within five (5) days of admission.

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

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

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

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

4. Medication regimen;

5 Dietary needs; and

6. Evacuation plans.

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

1200-08-37-.09 Resident Records.

(1) A TBI residential home provider shall develop and maintain an organized record for each resident and ensure that all entries shall be written legibly in ink, typed, or kept electronically, and signed, and dated. The provider shall keep a current record of active cases in the home. Historical records for each resident may be kept in the home or at the TBI residential home's home office.

(2) Personal record. A TBI residential home provider shall ensure that the resident's personal record include at a minimum the following:

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

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

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

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

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

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

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

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

(3) Medical record. A TBI residential home provider shall ensure that its staff develop and maintain a medical record for each resident who requires health care services at the TBI residential home regardless of whether such services are rendered by the TBI residential home or by resident self-direction, which shall include at a minimum:

(a) Medical history;

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

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

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

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

2. Identify the dosage, route, and the date and time each medication or supplement is to be given;

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

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

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

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

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

(f) Special procedures and preventive measures performed;

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

(h) Listing of current vaccinations;

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

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

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

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

1200-08-37-.10 Facility Standards.

(1) General.

(a) TBI residential homes shall be operated and maintained to ensure a homelike environment.

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

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

(d) TBI residential home providers, TBI residential home staff, and/or family members shall not sleep in areas designated as living areas or common use areas.

(2) Resident sleeping rooms.

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

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

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

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

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

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

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

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

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

(3) Common use areas.

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

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

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

(4) Bathrooms.

(a) Bathrooms must provide individual privacy with a door which opens to a hall or common use room; a mirror; a window that opens or other means of ventilation; and a window covering for privacy. A resident may have a bathroom that opens into the resident's own bedroom instead of opening to a hall or common use room, provided that no resident shall have to walk through another resident's sleeping room to get to a bathroom.

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

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

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

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

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

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

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

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

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

(5) Each TBI residential home shall provide the following:

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

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

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

1200-08-37-.11 Building Standards.

(1) The physical plant and the overall environment of a TBI residential home shall be constructed, arranged, and maintained in such a manner that the safety and well-being of residents are assured.

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

(3) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the Department. All new facilities shall conform to the current edition of the International Building Code, the National Fire Protections Code (NFPA), the National Electrical Code, and the U.S. Public Health Service Food Code, as adopted by the Board for Licensing Health Care Facilities. When referring to height, area, or construction type, the Standard Building Code shall prevail. All new and existing facilities are subject to the requirements of the Americans with Disabilities Act (A.D.A.). Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.

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

(5) The licensed contractor shall perform all new construction and renovations to TBI residential homes, 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 TBI residential homes, including the submission of phased construction plans and the final drawings and the specifications to each.

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

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

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

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

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

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

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

(11) Architectural drawings shall include, where applicable:

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

(b) Floor plan(s) showing scale drawings of typical and special rooms indicating all fixed and movable equipment and major items of furniture. Floor plan(s) shall indicate the size of each room; (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;

(d) The elevation of each facade;

(e) The typical sections throughout the building;

(f) The schedule of finishes;

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

(h) Roof plans;

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

(j) Code analysis;

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

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

(12) Structural drawings shall include, where applicable:

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

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

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

(13) Mechanical drawings shall include, where applicable:

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

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

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

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

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

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

(14) Electrical drawings shall include, where applicable:

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

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

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

1. The fire alarm system; and

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

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

(15) Sprinkler drawings shall include, where applicable:

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

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

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

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

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

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

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

(17) The licensed contractor shall ensure, through the submission of plans and specifications, that in each TBI residential home a negative air pressure shall be maintained in the soiled utility area, toilet room,

janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms;

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

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

(20) In the event submitted materials do not appear to satisfactorily comply with Rule 1200-08-37-.11 (3), the Department of Health shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

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

(22) If construction begins within one hundred eighty (180) days of the date of the Department of Health's approval, the Department's written notification of satisfactory review constitutes compliance with Rule 1200-08-37-.11(19). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.

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

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

(a) Fire alarms; and

(b) Generators (if applicable).

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

(a) Be constructed after 1976;

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

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

1200-08-37-.12 Life Safety.

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

(2) A TBI residential home shall ensure fire protection for residents by doing at least the following:

(a) Eliminate fire hazards;

(b) Install necessary firefighting equipment;

(c) Adopt a written fire control plan;

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

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

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

(g) Prohibit use of combustible finishes and furnishings;

(h) Prohibit open flame and portable space heaters;

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

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

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

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

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

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

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

(4) A TBI residential home shall conduct fire drills in accordance with the following:

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

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

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

(d) A TBI residential home shall maintain records that document and evaluate these drills for at least three (3) years.

(5) A TBI residential home shall take the following action should a fire occur:

(a) A TBI residential home shall report all fires which result in a response by the local fire department to the Department of Health within seven (7) days of its occurrence.

(b) A TBI residential home's report to the Department of Health shall contain the following:

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

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

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

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

(6) A TBI residential home shall take the following precautions regarding electrical equipment to ensure the safety of residents:

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

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

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

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

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

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

(g) Prohibit use of extension cords.

(7) If a TBI residential home allows residents to smoke, it shall ensure the following:

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

(b) Provide ashtrays wherever smoking is permitted;

(c) Smoking in bed is prohibited;

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

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

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

(9) A TBI residential home shall ensure that:

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

(b) The TBI residential home stores janitorial supplies away from the kitchen, food storage area, dining area or other resident accessible areas;

(c) The TBI residential home stores flammable liquids in approved containers and away from the home's living areas; and

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

(10) A TBI residential home shall post emergency telephone numbers near a telephone accessible to the residents.

(11) A TBI residential home shall maintain its physical environment in a safe, clean and sanitary manner by doing at least the following:

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

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

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

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

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

(f) Maintain temperatures in resident sleeping units and common areas at not be less than 65° F and no more than 85° F.

1200-08-37-.13 Infectious and Hazardous Waste.

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

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

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

(b) Cultures and stocks of infectious agents including specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and

industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;

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

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

(e) All discarded sharps (e.g., hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) used in resident care or which have come into contact with infectious agents during use in medical, research, or industrial laboratories; and

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

(3) Infectious and hazardous waste must be segregated from other waste at the point of generation (i.e., the point at which the material becomes a waste) within the TBI residential home.

(4) Waste must be packaged in a manner that will protect waste handlers and the public from possible injury and disease that may result from exposure to the waste. Such packaging must provide for containment of the waste from the point of generation up to the point of proper treatment or disposal. Packaging must be selected and utilized for the type of waste the package will contain, how the waste will be treated and disposed, and how it will be handled and transported, prior to treatment and disposal.

(a) Contaminated sharps must be directly placed in leak proof, rigid, and puncture-resistant containers which must then be tightly sealed.

(b) Whether disposable or reusable, all containers, bags, and boxes used for containment and disposal of infectious waste must be conspicuously identified. Packages containing infectious waste which pose additional hazards (e.g., chemical, radiological) must also be conspicuously identified to clearly indicate those additional hazards.

(c) Reusable containers for infectious waste must be thoroughly sanitized each time they are emptied, unless the surfaces of the containers have been completely protected from contamination by disposable liners or other devices removed with the waste.

(d) Opaque packaging must be used for pathological waste.

(5) After packaging, waste must be handled and transported by methods ensuring containment and preservation of the integrity of the packaging, including the use of secondary containment where necessary. Plastic bags of infectious waste must be transported by hand.

(6) Waste must be stored in a manner which preserves the integrity of the packaging, inhibits rapid microbial growth and putrefaction, and minimizes the potential of exposure or access by unknowing persons.

(a) Waste must be stored in a manner and location which affords protection from animals, precipitation, wind, and direct sunlight, does not present a safety hazard, does not provide a breeding place or food source for insects or rodents, and does not create a nuisance.

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

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

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

(b) To the extent practicable, repackage all spilled waste and contaminated debris in accordance with the requirements of paragraph 6 of this rule;

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

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

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

(a) A TBI residential home may treat infectious waste in an on-site sterilization or disinfection device, or in an incinerator or a steam sterilizer, which has been designed, constructed, operated and maintained so that infectious waste treated in such a device is rendered non-infectious and is, if applicable, authorized for that purpose pursuant to current rules of the Department of Environment and Conservation. A valid permit or other written evidence of having complied with the Tennessee Air Pollution Control Regulations shall be available for review, if required. Each sterilizing or disinfection cycle must contain appropriate indicators to assure that conditions were met for proper sterilization or disinfection of materials included in the cycle, and appropriate records kept. Proper operation of such devices must be verified at least monthly, and records of the monthly verifications shall be available for review. Waste that contains toxic chemicals that would be volatilized by steam must not be treated in steam sterilizers. Infectious waste that has been rendered to carbonized or mineralized ash shall be deemed non-infectious. Unless otherwise hazardous and subject to the hazardous waste management requirements of the current rules of the Department of Environment and Conservation, such ash shall be disposable as a (non-hazardous) solid waste under current rules of the Department of Environment and Conservation.

(b) A TBI residential home may discharge liquid or semi-liquid infectious waste to the collection sewerage system of a wastewater treatment facility which is subject to a permit pursuant to T.C.A. § 69-3-101, et seq., provided that such discharge is in accordance with any applicable terms of that permit and/or any applicable municipal sewer use requirements.

(c) Any TBI residential home accepting waste from another state must promptly notify the Department of Environment and Conservation, county, and city public health agencies, and must strictly comply with all applicable local, state and federal regulations.

(9) A TBI residential home may have waste transported off-site for storage, treatment, or disposal. Such arrangements must be detailed in a written contract, available for review. If such off-site location is located within Tennessee, the TBI residential home must ensure that it has all necessary State and local approvals, and such approvals shall be available for review. If the off-site location is within another state, the TBI residential home must notify in writing all public health agencies with jurisdiction that the location is being used for management of the TBI residential home's waste. Waste shipped off-site must be packaged in accordance with applicable federal and state requirements. Waste transported to a sanitary landfill in this state must meet the requirements of current rules of the Department of Environment and Conservation.

(10) Human anatomical remains which are transferred to a mortician for cremation or burial shall be exempt from the requirements of this rule.

(11) All garbage, trash and other non-infectious waste shall be stored and disposed of in a manner that must not permit the transmission of disease, create a nuisance, provide a breeding place for insects and rodents, or constitute a safety hazard. All containers for waste shall be water tight, constructed of easily-cleanable material, and shall be kept on elevated platforms.

1200-08-37-.14 Reports.

(1) The TBI residential home shall report all incidents of abuse, neglect and misappropriation of patient/resident property to the Department of Health in accordance with T.C.A. § 68-11-211, et seq.

(2) The TBI residential home shall report the following incidents in accordance with T.C.A. § 68-11-211, et seq.

(a) Strike by staff at the home;

(b) External disasters impacting the home;

(c) Disruption of any service vital to the continued safe operation of the TBI residential home or to the health and safety of its residents and personnel; and

(d) Fires at the TBI residential home that disrupt the provision of resident care services or causes harm to the residents or staff, or that are reported by the home to any entity, including but not limited to a fire department charged with preventing fires.

1200-08-37-.15 Resident Rights.

(1) A TBI residential home shall ensure at least the following rights for each resident and shall not require a resident to waive any of the delineated rights:

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

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

(c) To refuse treatment. A TBI residential home must inform the resident of the consequences of that decision. The TBI residential home must report the resident's refusal and his/her reason to the resident's treating physician and it must document such in the resident's record;

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

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

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

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

(h) To voice grievances and recommend changes in policies and services of the TBI residential home without restraint, interference, coercion, discrimination or reprisal. A TBI residential home shall inform the resident, the resident's family member, or the resident's legal representative of procedures to voice grievances and for registering complaints confidentially;

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

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

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

(l) To have free access to day rooms, dining and other group living or common areas at reasonable hours and to come and go from the TBI residential home, unless such access infringes upon the rights of other residents, in accordance with the resident's plan of care;

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

(n) To send and receive unopened mail;

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

(p) To participate, or to refuse to participate, in community activities, including cultural, educational, religious, community service, vocational and recreational activities, in accordance with the resident's plan of care;

(q) To not be required to perform services for the TBI residential home. The resident and licensee may mutually agree, in writing, that the resident may perform certain activities or services as part of the fee for the resident's stay and/or that the resident may perform certain activities or services as a component of the resident's plan of care; and

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

1200-08-37-.16 Policies and Procedures for Health Care Decision-Making.

(1) Pursuant to this rule, each TBI residential home shall maintain and establish policies and procedures governing the designation by a resident of a health care decision-maker for making health care decisions for a resident when the resident becomes incompetent or lacks capacity, including, but not limited to, allowing the withholding of CPR measures from individual residents. A competent resident 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) A competent resident 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) A TBI residential home 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 recovers capacity. The designated physician shall also have authority to make a determination that another condition exists that affects an individual instruction or the authority of an agent. To make such determinations the resident's designated physician shall be authorized to consult with such other persons as the physician may deem appropriate.

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

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

(9) A TBI residential home 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 TBI residential home 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 resident, 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) A competent resident 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 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 at the TBI residential home shall identify his or her surrogate.

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

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

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

2. The resident's adult child;

3. The resident's parent;

4. The resident's adult sibling;

5. Any other adult relative of the resident; or

6. Any other adult who satisfies the requirements of Rule 1200-08-37-.16(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 1200-08-37-.16(16)(c) thru 1200-08-37-.16(16)(g) is reasonably available, the designated physician may make health care decisions for the resident after the resident either:

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

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

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

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

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

(l) Except as provided in Rule 1200-08-37-.16(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 the TBI residential home; or

(iv) an employee of an operator of the TBI residential home; 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 the TBI residential home 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 1200-08-37-.16(20) thru 1200-08-37-.16(22), a health care provider or TBI residential home 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 TBI residential home may decline to comply with an individual instruction or health care decision if the instruction or decision is:

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

(b) The home 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 TBI residential home 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 home.

(23) A health care provider or TBI residential home that declines to comply with an individual instruction or health care decision pursuant to Rule 1200-08-37-.16(20) thru 1200-08-37-.16(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 TBI residential home 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 TBI residential home acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or home 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.

(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 from 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.

1200-08-37-.17 Disaster Preparedness.

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

(a) Fire Safety Procedures Plan shall include:

1. Minor fires;

2. Major fires;

3. Fighting the fire;

4. Evacuation procedures; and

5. Staff functions.

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

1. Staff duties and

2. Evacuation procedures.

(c) Bomb Threat Procedures Plan shall include:

1. Staff duties;

2. Search team, searching the premises;

3. Notification of authorities;

4. Location of suspicious objects; and

5. Evacuation procedures.

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

1. Staff duties;

2. Evacuation procedures; and

3. Safety procedures following the flood.

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

1. Staff duties;
2. Equipment failures;

3. Evacuation procedures; and

4. Emergency food service.

(f) Earthquake Disaster Procedures Plan shall include:

1. Staff duties;

2. Evacuation procedures;

3. Safety procedures; and

4. Emergency services.

(2) A TBI residential home shall comply with the following:

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

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

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

(3) A TBI residential home 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) A TBI residential home shall have a functioning emergency back-up generator adequate to meet the TBI residential home's HVAC and essential needs until regular service is restored. The TBI residential home 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 TBI residential home shall maintain a monthly log and have trained staff familiar with the generator's operation.

1200-08-37-.18 Appendix I.

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

(Form on next page)

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/or is not breathing.

☐ **Resuscitate(CPR)** (Must select Full Treatment in Section B)

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

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

Preferences have been expressed to a physician /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 at discharge from 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 E 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

(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.

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
- Provide a copy to the person(s) you named as your health care agent

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

Date: September 16, 2013

Signature: DEL

Name of Officer: Diona E. Layden

Title of Officer: Deputy General Counsel
Department of Health

MOLLIE A. GASS
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.
My Commission Expires JULY 7, 2014

Subscribed and sworn to before me on: 9/16/2013

Notary Public Signature: MAGass

My commission expires on: 7/7/14

Department of State Use Only

Filed with the Department of State on: 9/17/13

Tre Hargett
Secretary of State

RECEIVED
2013 SEP 17 PM 4:16
SECRETARY OF STATE