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Sequence Number: 09-28-15
Rule ID(s): 6036-6042
File Date: 9/15/15
Effective Date: 12/14/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Health
Division:	Board for Licensing Health Care Facilities
Contact Person:	Kyonzté Hughes-Toombs Assistant General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Kyonzte.Hughes-Toombs@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

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

Chapter Number	**Chapter Title**
1200-08-02	Standards for Prescribed Child Care Centers
Rule Number	**Rule Title**
1200-08-02-.01	Definitions
1200-08-02-.06	Basic Services

Chapter Number	**Chapter Title**
1200-08-06	Standards for Nursing Homes
Rule Number	**Rule Title**
1200-08-06-.01	Definitions
1200-08-06-.06	Basic Services

Chapter Number	**Chapter Title**
1200-08-15	Standards for Residential Hospices
Rule Number	**Rule Title**
1200-08-15-.01	Definitions
1200-08-15-.06	Basic Hospice Functions

Chapter Number	Chapter Title
1200-08-26	Standards for Homecare Organizations Providing Home Health Services
Rule Number	**Rule Title**
1200-08-26-.01	Definitions
1200-08-26-.06	Basic Agency Functions

Chapter Number	Chapter Title
1200-08-27	Standards for Homecare Organizations Providing Hospice Services
Rule Number	**Rule Title**
1200-08-27-.01	Definitions
1200-08-27-.06	Basic Agency Functions

Chapter Number	Chapter Title
1200-08-28	Standards for HIV Supportive Living Centers
Rule Number	**Rule Title**
1200-08-28-.01	Definitions
1200-08-28-.06	Basic HIV Supportive Living Facility Functions

Chapter Number	Chapter Title
1200-08-34	Standards for Homecare Organizations Providing Professional Support Services
Rule Number	**Rule Title**
1200-08-34-.01	Definitions
1200-08-34-.06	Basic Agency Functions

(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)

Amendments

Chapter
1200-08-02

Standards for Prescribed Child Care Centers

Rule 1200-08-02-.01 Definitions is amended by deleting paragraph (73) in its entirety and substituting instead the following language, and is further amended by adding new paragraph (14) and renumbering the remaining paragraphs, so that as amended, the new paragraphs shall read:

(14) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(74) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

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

Rule 1200-08-02-.06 Basic Services is amended by adding new subparagraph (6)(b) and re-lettering the remaining subparagraphs, so that as amended, the new subparagraph (6)(b) shall read:

(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

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

Chapter
1200-08-06

Standards for Nursing Homes

Rule 1200-08-06-.01 Definitions is amended by deleting paragraph (64) in its entirety and substituting instead the following language, and is further amended by adding new paragraph (10) and renumbering the remaining paragraphs, so that as amended, the new paragraphs shall read:

(10) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(65) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

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

Rule 1200-08-06-.06 Basic Services is amended by adding new subparagraph (11)(b) and re-lettering the remaining subparagraphs, so that as amended, the new subparagraph (11)(b) shall read:

(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

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

Chapter
1200-08-15

Standards for Residential Hospices

Rule 1200-08-15-.01 Definitions is amended by deleting paragraph (75) in its entirety and substituting instead the following language, and is further amended by adding new paragraph (12) and renumbering the remaining paragraphs, so that as amended, the new paragraphs shall read:

(12) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(76) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

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

Rule 1200-08-15-.06 Basic Hospice Functions is amended by deleting paragraph (9) and substituting instead the following language, so that as amended, the new paragraph (9) shall read:

(9) Physical therapy, occupational therapy, respiratory therapy and speech language pathology.

(a) Physical therapy services, occupational therapy services, respiratory therapy services and speech language pathology services must be available, and when provided, offered in a manner consistent with accepted standards of practice.

(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

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

Chapter
1200-08-26

Standards for Homecare Organizations Providing Home Health Services

Rule 1200-08-26-.01 Definitions is amended by deleting paragraph (61) in its entirety and substituting instead the following language, and is further amended by adding new paragraph (12) and renumbering the remaining paragraphs, so that as amended, the new paragraphs shall read:

(12) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(62) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

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

Rule 1200-08-26-.06 Basic Agency Functions is amended by deleting subparagraph (6)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (6)(b) shall read:

(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

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

Chapter
1200-08-27

Standards for Homecare Organizations Providing Hospice Services

Rule 1200-08-27-.01 Definitions is amended by deleting paragraph (64) in its entirety and substituting instead the following language, and is further amended by adding new paragraph (12) and renumbering the remaining paragraphs, so that as amended, the new paragraphs shall read:

(12) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(65) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

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

Rule 1200-08-27-.06 Basic Agency Functions is amended by adding new paragraph (13) and renumbering the remaining paragraphs, so that as amended, the new paragraph (13) shall read:

(13) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

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

Chapter
1200-08-28

Standards for HIV Supportive Living Centers

Rule 1200-08-28-.01 Definitions is amended by deleting paragraph (72) in its entirety and substituting instead the following language, and is further amended by adding new paragraph (12) and renumbering the remaining paragraphs, so that as amended, the new paragraphs shall read:

(12) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(73) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

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

Rule 1200-08-28-.06 Basic HIV Supportive Living Facility Functions is amended by adding new paragraph (9) and renumbering the remaining paragraphs, so that as amended, the new paragraph (9) shall read:

(9) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

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

Chapter
1200-08-34

Standards for Homecare Organizations Providing Professional Support Services

Rule 1200-08-34-.01 Definitions is amended by deleting paragraph (54) in its entirety and substituting instead the following language, and is further amended by adding new paragraph (9) and renumbering the remaining paragraphs, so that as amended, the new paragraphs shall read:

(9) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(55) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

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

Rule 1200-08-34-.06 Basic Agency Functions is amended by deleting subparagraph (5)(b) and substituting the following language, so that as amended, the new subparagraph (5)(b) shall read:

(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

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

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Carissa S. Lynch, Pharm.D.	X				
Michael R. Miller				X	
Diana L. Miller	X				
Robert Gordon				X	
John A. Marshall	X				
Jennifer Gordon-Maloney, DDS	X				
Kenneth R. Robertson, M.D.	X				
Sherry Robbins, M.D.	X				
Annette Marlar				X	
Robert C. Breeden	X				
Roger L. Mynatt	X				
Janet Williford	X				
David Rhodes	X				
Joshua A. Crisp	X				
Betty S. Hodge	X				
Bobby Wood	X				
Jim Shulman	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board for Licensing Health Care Facilities (board/commission/ other authority) on 01/21/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *09/29/14 (mm/dd/yy)*

Rulemaking Hearing(s) Conducted on: (add more dates). *01/21/15 (mm/dd/yy)*

Date: 9-3-15

Signature: Kyonzté Hughes-Toombs

Name of Officer: Kyonzté Hughes-Toombs

Title of Officer: Assistant General Counsel
Department of Health

Subscribed and sworn to before me on: 9-3-15

Notary Public Signature: Suzanne Mechkowski

My commission expires on:

SUZANNE MECHKOWSKI
STATE OF TENNESSEE NOTARY PUBLIC
MY COMMISSION EXPIRES APRIL 19, 2017
SUMNER COUNTY

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

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

9/9/2015
Date

Department of State Use Only

Filed with the Department of State on: 9/15/15

Effective on: 12/14/15

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED
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SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

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

There were no comments, either written or oral.

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

REGULATORY FLEXIBILITY ANALYSIS

(1) The extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

These rules do not overlap, duplicate, or conflict with other federal, state, or local governmental rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule or rules.

These rules exhibit clarity, conciseness, and lack of ambiguity.

(3) The establishment of flexible compliance and/or reporting requirements for small businesses.

These rules do not create flexible compliance and/or reporting requirements for small businesses.

(4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.

These rules do not involve schedules or deadlines for compliance or reporting requirements for small businesses.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

These rules do not consolidate or simplify compliance reporting requirements for small businesses.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

These rules do not establish performance, design, or operational standards.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

These rules do not create unnecessary barriers or stifle entrepreneurial activity or innovation.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

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

Rulemaking hearing date: January 21, 2015

1. **Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

   These proposed rules will affect those engaged in the practice of speech therapy or providing speech therapy services. Currently, the following facilities offer speech therapy services: hospice centers 59, centers offering professional support services 129, nursing homes 327, residential hospices 8, and home health agencies 157. The rules would also affect prescribed child care centers and HIV supportive living centers; however, there are currently no facilities in Tennessee licensed under these categories. These facilities and/or businesses will directly benefit from the proposed rule.

2. **Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

   The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule should be minimal.

3. **Statement of the probable effect on impacted small businesses and consumers:**

   These proposed rules will positively affect those licensed speech language pathologists and clinical fellows as the amendments will correctly define the terms of their practice removing ambiguity in the current rules which use old language referring to the practice of speech therapy. Consumers will benefit as the clarification in the rules allows clinical fellows to provide speech language therapy.

4. **Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

   There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and or objectives of the proposed rule.

5. **Comparison of the proposed rule with any federal or state counterparts:**

   Federal: None.

   State: These proposed rules closely mirror the rules for the Board of Communications Disorders and Sciences.

6. **Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

   These proposed rules do not provide for any exemptions for small businesses.

Impact on Local Governments

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

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

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

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

Rule 1200-08-26-.01 is being amended to provide for definitions of "speech language pathologist," in place of "speech therapist" as well as "clinical fellow" to more closely mirror the language from the rules for the Board of Communications Disorders and Sciences.

Rule 1200-08-26-.06(6) is being amended to allow clinical fellows to provide speech therapy services within home health settings.

The same language has been added to the following rules chapters: 1200-08-02 (Standards for Prescribed Child Care Centers), 1200-08-06 (Standards for Nursing Homes), 1200-08-15 (Standards for Residential Hospices), 1200-08-27 (Standards for Homecare Organizations Providing Hospice Services), 1200-08-28 (Standards for HIV Supportive Living Centers), and 1200-08-34 (Standards for Homecare Organizations Providing Professional Support Services).

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

None.

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

These proposed rules will affect those engaged in the practice of speech therapy or providing speech therapy services. Currently, the following facilities offer speech therapy services: hospice centers 59, centers offering professional support services 129, nursing homes 327, residential hospices 8, and home health agencies 157. The rules would also affect prescribed child care centers and HIV supportive living centers; however, there are currently no facilities in Tennessee licensed under these categories.

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

None.

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

This proposed rule amendment should not result in any increase or decrease in state and local government revenues or expenditures.

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

Kyonzté Hughes-Toombs, Assistant General Counsel, Department of Health

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

Kyonzté Hughes-Toombs, Assistant General Counsel, Department of Health

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

Department of Health, Office of General Counsel, 665 Mainstream Drive, Nashville, Tennessee 37243, (615)741-1611, Kyonzte.Hughes-Toombs@tn.gov.

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

None.

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

CHAPTER 1200-08-02
STANDARDS FOR PRESCRIBED CHILD CARE CENTERS

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1200-08-02-.01 DEFINITIONS.

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

(2) Administrator. The individual designated by the licensee or the governing body to be the person responsible for the day to day supervision and operation of the PCCC and may be either the licensee or the nursing director.

(3) Adult. An individual who has capacity and is at least 18 years of age.

(4) Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) Board. The Tennessee Board for Licensing Health Care Facilities.

(7) Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient to make health care decisions while having the capacity to do so. A patient shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient shall have the burden of proving lack of capacity.

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

(9) Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.

(Rule 1200-08-02-.01, continued)

(10) Certified Nurse Practitioner. A person who is licensed as a registered nurse and has further been issued a certificate of fitness to prescribe and/or issue drugs by the Tennessee Board of Nursing.

(11) Certified Respiratory Technician. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(12) Child or Children. A person or persons under 18 years of age.

(13) Child Care. The provision of supervision, protection, and meeting, at a minimum, the basic needs of a child for three (3) or more hours a day, but less than twenty-four (24) hours a day.

(14) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

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

(16)~~(15)~~ Dentist. A person currently licensed as such by the Tennessee Board of Dentistry.

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

(18)~~(17)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(19)~~(18)~~ Developmentally Appropriate. As defined by the National Association for the Education of Young Children, developmentally appropriate practice is the use of child development knowledge to identify the range of appropriate behaviors, activities and materials for a specific age group. This knowledge is used in conjunction with understanding about an individual child's growth patterns, strengths, interests, and experiences to design the most appropriate learning environment. Developmentally appropriate curriculum provides for all areas of a child's development: physical, emotional, social, and cognitive through an integrated approach.

(20)~~(19)~~ Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners.

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

(22)~~(21)~~ Electronic Signature. The authentication of a health record document or documentation in an electronic form achieved through electronic entry of an exclusively assigned, unique identification code entered by the author of the documentation.

(23)~~(22)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(24)~~(23)~~ Emergency. Any situation or condition which presents an imminent danger of death or serious physical or mental harm to children.

(25)~~(24)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(Rule 1200-08-02-.01, continued)

(26)~~(25)~~ Functional Assessment. An evaluation of the child's abilities and needs related to self care, communication skills, social skills, motor skills, pre-academic areas, play with toys/objects, growth and development appropriate for age.

(27)~~(26)~~ Group. A specific number of children comprising an age range, assigned to specific staff in an assigned space, which is divided from the space of other groups by a recognizable barrier to define limits and to reduce distractions.

(28)~~(27)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(29)~~(28)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state, or federal regulations.

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

(31)~~(30)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(32)~~(31)~~ Health Care Decision-maker. In the case of an individual who lacks capacity, the individual's health care decision-maker is one of the following: the individual's health care agent as specified in an advance directive, the individual's court-appointed guardian or conservator with health care decision-making authority, the individual's surrogate as determined pursuant to Rule 1200-08-02-.12 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(33)~~(32)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(34)~~(33)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business of practice of a profession.

(35)~~(34)~~ High School Diploma. As used in the context of staff qualifications, refers to a document recognizing graduation from a legally approved institution, public or private, based on the issuing state's required number of academic credits, including passing a GED test. As used in this Chapter, a certificate or statement of attendance or similar document, or correspondence or video courses, do not qualify as a high school diploma.

(36)~~(35)~~ Holding Out to the Public. Advertising or soliciting the public through the use of personal, telephone, mail or other forms of communication to provide information about services provided by the facility.

(37)~~(36)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

(38)~~(37)~~ Infant. A child who is six (6) weeks through fifteen (15) months of age.

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

(Rule 1200-08-02-.01, continued)

(40)~~(39)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(41)~~(40)~~ Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(42)~~(41)~~ Licensed Practical Nurse. A person currently licensed as such by Tennessee Board of Nursing.

(43)~~(42)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the child's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part, which includes labor when delivery is imminent, when there is inadequate time to effect safe transfer to a hospital prior to delivery, or when a transfer may pose a threat to the health and safety of the child or the unborn child.

(44)~~(43)~~ Medical Record. Medical histories, records, reports, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, x-rays, radiology interpretations, and other written electronics, or graphic data prepared, kept, made or maintained in a facility that pertains to confinement or services rendered to patients admitted or receiving care.

(45)~~(44)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or other medical or surgical treatments to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the patient's representative expresses the goals of the patient.

(46)~~(45)~~ Mid-Level Practitioner. A certified nurse practitioner or a licensed physician assistant.

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

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

(49)~~(48)~~ N.F.P.A. The National Fire Protection Association.

(50)~~(49)~~ Nursing Director. A licensed registered nurse providing continuous supervision of PCCC services and managing the operations of the facility.

(51)~~(50)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(52)~~(51)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(53)~~(52)~~ Optometrist. A person currently licensed as such by the Tennessee Board of Optometry.

(Rule 1200-08-02-.01, continued)

(54)~~(53)~~ Parent. A biological, legal or adoptive parent, guardian, or a legal or physical custodian who has primary responsibility for a child.

(55)~~(54)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(56)~~(55)~~ Personally Informing. A communication by any effective means from the patient directly to a health care provider.

(57)~~(56)~~ Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.

(58)~~(57)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(59)~~(58)~~ Physical Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(60)~~(59)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

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

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

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

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

(c)

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

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

3. Specify both 1 and 2.

(63)~~(62)~~ Plan of Care. The comprehensive plan for implementation of medical, nursing, psychosocial, developmental, and educational therapies to be provided upon admission and shall include necessary equipment to meet the child's need, and the plan will be revised to include recommended changes in the therapeutic plans. The disposition to be followed in the event of emergency situations will be specified in the Plan of Care.

(64)~~(63)~~ Podiatrist. A person currently licensed as such by the Tennessee Board of Registration in Podiatry.

(65)~~(64)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(Rule 1200-08-02-.01, continued)

(66)~~(65)~~ Prescribed Child Care Center (PCCC). A nonresidential child care, health care/child care center providing physician prescribed services and appropriate developmental services for six (6) or more children who are medically and/or technology dependent and require continuous nursing intervention. Child care for purposes of this section means the provision of supervision, protection, and meeting the basic needs of children, who are not related to the primary caregivers, for three (3) or more hours a day, but less than twenty-four (24) hours a day. As part of the continuum of care for medically dependent children, the center provides a triad of medically necessary services: skilled nursing care, developmental programming, and parental training. Prescribed child care (PCCC) provides a less restrictive alternative to hospitalization and reduces the isolation often experienced by the homebound, medically dependent child and family. The purpose of prescribed childcare is health care, but does not exclude other services.

(67)~~(66)~~ Psychologist. A person currently licensed as such by the Tennessee Board of Examiners in Psychology.

(68)~~(67)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(69)~~(68)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the child's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(70)~~(69)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(71)~~(70)~~ Registered Respiratory Therapist. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(72)~~(71)~~ Shall or Must. Compliance is mandatory.

(73)~~(72)~~ Social Worker. A person who has at least a bachelor's degree in Social Work or related field, and preferably, two (2) years medical social work or other community based work experience.

~~(73) Speech Pathologist. A person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.~~

(74) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

(75)~~(74)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(76)~~(75)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(77)~~(76)~~ Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(78)~~(77)~~ Toddler. A child who is sixteen (16) months through thirty (30) months of age.

(Rule 1200-08-02-.01, continued)

(79)~~(78)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the child.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-216, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule certified June 7, 1974. Amendment filed July 3, 1984; effective August 1, 1984. Repeal and new rule filed May 22, 1986; effective June 21, 1986. Amendment filed April 1, 1992; effective May 16, 1992. Amendment filed January 6, 1995; effective March 22, 1995. Repeal filed March 18, 2000; effective May 30, 2000. New rule filed June 13, 2002; effective August 27, 2002. Amendment filed May 16, 2006; effective July 30, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*

(Rule 1200-08-02-.05, continued)

(f) The plan shall be signed by the authorized representative of the PCCC, physician, and parent(s). Copies of the plan shall be given to the parent(s) and the PCCC staff.

(g) A consent form, outlining the purpose of a PCCC facility, family responsibilities, authorized treatment, and emergency disposition plans shall be signed by the parent(s) and witnessed prior to admission to the PCCC facility. The original consent form shall be retained by the facility. The parent(s) shall be provided a copy of the consent form.

(h) At the time of admission, written policies and procedures of the PCCC shall be provided to parents or other applicants. Policies shall include criteria for dismissal of children. A copy of PCCC policies and procedures shall be given to the parent and documentation of receipt filed in the child's record.

(i) A pre-enrollment visit to the center by the parent shall be documented.

(j) Upon enrollment of a child, the parent shall receive a summary of the Department's licensing requirements and receipt of the summary shall be documented by the parent's signature.

(k) Each PCCC shall develop a plan for regular and ongoing communication with parents. This plan shall include communication concerning curriculum, changes in personnel, or planned changes affecting children's routine care. Documentation shall be maintained for the most recent quarter.

(l) During normal operating hours, parents shall be permitted access to their children, and ready access to all areas of the PCCC shall be granted Department representatives and inspection authorities (i.e., fire safety, sanitation, and health).

(m) Parents shall be informed in advance of the child's removal from the premises except in cases of emergencies or pursuant to investigative procedures conducted pursuant to the child abuse laws.

(n) Children shall not be in care for more than sixteen hours in a twenty-four hour period except in special circumstances (e.g., acute illness of or injury to parents, natural disaster, unusual work hours). Individual plans for extended care shall be maintained, with documentation, signed by parent and administrator, retained on file.

(o) Part-time children shall be counted in the ratio and group and shall have required records on file before they are cared for.

(p) Any infant or child not meeting the criteria set out in 1200-08-02-.05(2)(a)-(c) shall be discharged from the PCCC.

Authority: *T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed June 13, 2002; effective August 27, 2002.*

1200-08-02-.06 BASIC SERVICES.

(1) Nursing Services.

(a) The PCCC must have an organized nursing service that provides twenty-four (24) hour nursing services furnished or supervised by a registered nurse. A registered nurse must be on the premises at all times during business hours.

(b) The PCCC must have a well-organized service with a plan of administrative authority and delineation of responsibilities for child care. The nursing director must be a licensed

(Rule 1200-08-02-.06, continued)

registered nurse who is responsible for the operation of the nursing service, including determining the types and numbers of nursing personnel and staff necessary to provide nursing care for the PCCC.

(c) The nursing service must have adequate numbers of licensed registered nurses, licensed practical nurses, and other personnel to provide nursing care to all children as needed. There must be supervisory and staff personnel for each department or unit of the PCCC to ensure, when needed, the immediate availability of a registered nurse.

(d) There must be a procedure to ensure that nursing personnel for whom licensure is required have valid and current licenses.

(e) A registered nurse must assess, supervise and evaluate the nursing care for each child.

(f) The PCCC must ensure that an appropriate individualized plan of care is prepared for each child.

(g) A registered nurse must assign the nursing care of each child to other nursing personnel in accordance with the child's needs and the specialized qualifications and competence of the nursing staff available. All nursing personnel shall have specialized training and a program in-service and continuing education commensurate with the duties and responsibilities of the individual. All training shall be documented for each individual so employed, along with documentation of annual competency skills. Orientation of any new personnel must be conducted within the first two weeks of employment.

(h) Non-employee licensed nurses who are working in the PCCC must adhere to the policies and procedures of the facility. The nursing director must provide for the adequate supervision and evaluation of the clinical activities of non-employee nursing personnel which occur within the responsibility of the nursing service. Annual competency and skill documentation must be demonstrated on these individuals just as on employees, if they perform clinical activities.

(i) All drugs, devices and related materials must be administered by, or under the supervision of, nursing or other personnel in accordance with federal and state laws and regulations, including applicable licensing requirements.

(j) All orders for drugs, devices and related materials must be in writing and signed by the practitioner or practitioners responsible for the care of the child. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they must be:

1. Accepted only by personnel that are authorized to do so by policies and procedures, consistent with federal and state law; and

2. Signed or initialed by the prescribing practitioner according to policy.

(k) Intravenous medications must be administrated in accordance with state law and approved policies and procedures.

(l) There must be a procedure for reporting adverse drug reactions and errors in administration of drugs.

(2) Physician Services.

(Rule 1200-08-02-.06, continued)

(a) Policies and procedures concerning services provided by the PCCC shall be available to the children's primary care physicians as requested.

(b) If children with mental, physical or other impairments or with a medical disorder are enrolled, and special care is needed, a physician's statement shall identify the condition and give the appropriate care professional special instructions for the child's care.

(c) Children shall be aided in receiving dental care as deemed necessary.

(d) Consultation with a physician shall occur at least annually to review medical care provided within the PCCC and shall include, but not be limited to:

1. Evaluate the delivery of emergency and medical care when the child's primary physician or his/her designated alternative is unavailable;

2. Review reports of accidents or unusual incidents occurring on the premises, identifying hazards to health and safety and recommending corrective action to the administrator;

3. Review performance improvement, infection control and safety action plans for appropriate actions;

4. Monitor the health status of facility personnel to ensure that no health conditions exist which would adversely affect children; and

5. Advise and provide consultation on matters regarding medical care, standards of care, surveillance and infection control.

(3) Educational Services

(a) The PCCC will provide parent(s) education services by including them in care related conferences and teaching them how to perform necessary therapies and how to meet the developmental and psychological needs of their child at home.

(b) Monthly educational development programs shall be conducted and documented. These programs shall be provided to:

1. Develop collaborative relationships between health professionals and parent(s).

2. Increase understanding and coping with the effects of childhood illness, and shall cover a variety of topics including:

(i) issues of death and dying;

(ii) awareness of services available;

(iii) fostering of advocacy skills;

(iv) impact of illness on child development; and

(v) parenting an ill child.

3. Develop case management skills to assist the family in setting priorities and planning and implementing the child's care at home.

(Rule 1200-08-02-.06, continued)

4. Develop a comprehensive Plan of Care to include the medical, nutritional, developmental and psychosocial needs of medically/technologically dependent children, including training in the implementation of new technology.

5. Prepare for management of emergency medical situations.

(c) A comprehensive orientation to acquaint the parent(s) with the philosophy and services of the PCCC shall be provided at the time of the child's placement in the PCCC.

(d) Activities shall be used for the children based on developmentally appropriate educational practices.

(e) To the extent that children are physically able to participate, a daily program shall provide opportunities for learning, self-expression, and participation in a variety of creative activities such as art, music, literature, dramatic play, science and health.

(f) Indoor physical activities, requiring children to use both large and small muscles, shall be provided for children of each age group who are physically able to participate.

(g) Activities for infants/toddlers shall provide experience for the development of language, gross motor, fine motor, social/personal, cognitive, and self-help skills. Examples of such activities include music, dramatic play, story-time, free activity periods, outdoor play, and the opportunity to explore many materials, situations, and roles.

(h) Because of the importance of language development and communication skills to infants and toddlers, they shall be talked to, listened to, read to and sung to, in addition to other language experience activities, including but not limited to, finger plays, patty cake, and flannel board activities.

(4) Nutritional Services

(a) The PCCC must have an organized dietary service that is directed and staffed by adequate qualified personnel. A facility may contract with an outside food management company if the company has a dietitian who serves the facility on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this paragraph and provides for consultant liaison with the facility staff for recommendations on dietetic policies affecting the children's treatment. If an outside contract is utilized for management of its dietary services, the facility shall designate a full-time employee to be responsible for the overall management of the services.

(b) The PCCC must designate a person, either directly or by contractual agreement, to serve as the food and dietetic services director with responsibility for the daily management of the dietary services. The food and dietetic services director shall be:

1. A qualified dietitian; or,

2. A graduate of a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association; or,

3. An individual who has successfully completed in-person or online coursework that provided ninety (90) or more hours of classroom instruction in food service supervision. If the course has not been completed, this person shall be enrolled in a course and making satisfactory progress for completion within the time limit specified by the course requirement; or,

(Rule 1200-08-02-.06, continued)

4. An individual who is a certified dietary manager (CDM), or certified food protection professional (CFPP); or,

5. A current or former member of the U.S. military who has graduated from an approved military dietary manager training program.

(c) There must be a qualified dietitian, full time, part-time, or on a consultant basis, who is responsible for the development and implementation of a nutrition care process to meet the needs of health maintenance, disease prevention and, when necessary, medical nutrition therapy to treat an illness, injury or condition. Medical nutrition therapy includes assessment of the nutritional status of the child and treatment through diet therapy, counseling and/or use of specialized nutrition supplements.

(d) Menus must meet the needs of the children.

1. Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the children and must be prepared and served as prescribed.

2. Special diets shall be prepared and served as ordered.

3. Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the children.

4. A current therapeutic diet manual approved by the dietitian and nursing director must be readily available to all nursing and food service personnel.

(e) Educational programs, including orientation, on-the-job training, inservice education, and continuing education, shall be offered to dietetic services personnel on a regular basis. Programs shall include instruction in the use of equipment, personal hygiene, proper inspection, and the handling, preparing and serving of food.

(f) A minimum of three (3) meals in each twenty-four (24) hour period shall be served. A supplemental night meal shall be served if more than fourteen (14) hours lapse between supper and breakfast. Additional nourishment shall be provided to children with special dietary needs. A minimum of three (3) days supply of food shall be on hand.

(g) Menus shall be prepared at least one week in advance. A dietitian shall be consulted to help write and plan the menus. If any change in the actual food served is necessary, the change shall be made on the menu to designate the foods actually served to the children. Menus of food served shall be kept on file for a thirty (30) day period.

(h) The dietician or designee shall have a conference, dated on the medical record with each child and/or family within two (2) weeks of admission to discuss the diet plan indicated by the physician. The child's dietary preferences shall be recorded and utilized in planning his/her daily menu.

(i) Food shall be protected from dust, flies, rodents, unnecessary handling, droplet infection, overhead leakage and other sources of contamination whether in storage or while being prepared and served and/or transported through hallways.

(j) Perishable food shall not be allowed to stand at room temperature except during necessary periods of preparation or serving. Prepared foods shall be kept hot (140°F

(Rule 1200-08-02-.06, continued)

or above) or cold (45°F or less). Appropriate equipment for temperature maintenance, such as hot and cold serving units or insulated containers, shall be used.

(k) Food shall not be forced on or withheld from children. Food shall not be used as a reward, nor shall food be used or withheld as punishment.

(l) Specific feeding instructions given by parents shall be in writing. If staff feel instructions to be inappropriate or in conflict with established policy or the therapeutic diet prescribed by the practitioner, staff shall initiate discussion with the parent to resolve the conflict.

(m) New foods shall be introduced to infants and toddlers; foods shall be introduced one at a time over a five-to-seven day period with parental approval.

(n) The feeding schedule for infants shall be in accordance with the child's need rather than according to the hour. (Infants fed breast milk may require more frequent feedings than formula-fed babies.)

(o) Parents and caregivers shall work together when weaning an infant to insure consistency in the weaning process. Weaning shall be delayed until after an infant adjusts to group care.

(p) Children shall not be permitted to carry a bottle with them throughout the day.

(q) All formulas and food brought from home shall be labeled with child's name. Milk shall be placed immediately in the refrigerator. Once milk has been warmed, it shall not be rewarmed or returned to the refrigerator. For optimum digestion, formula is to be served at body temperature.

(r) Frozen breast milk shall be dated when expressed. Bottled breast milk shall not be heated in a microwave oven. To prevent scalding, extreme caution shall be taken when a microwave oven is used to heat food.

(s) Previously opened baby food jars shall be not accepted in the PCCC.

(t) Infants shall be held while being fed if they are unable to sit in a high chair, an infant seat, or at the table. Bottles shall not be propped. A child shall not be given a bottle while lying flat.

(u) When children are capable of using a high chair, they shall be allowed to do so and to experiment with food, with feeding themselves, and to eat with fingers or spoon. Children shall not be left unattended while eating.

(v) Dishwashing machines shall be used according to manufacturer specifications.

(w) All dishes, glassware and utensils used in the preparation and serving of food and drink shall be cleaned and sanitized after each use.

(x) The cleaning and sanitizing of handwashed dishes shall be accomplished by using a three-compartment sink according to the current "U.S. Public Health Services Sanitation Manual":

(y) The kitchen shall contain sufficient refrigeration equipment and space for the storage of perishable foods.

(Rule 1200-08-02-.06, continued)

(z) All refrigerators and freezers shall have thermometers. Refrigerators shall be kept at a temperature not to exceed 45^0F. Freezers shall be kept at a temperature not to exceed 0^0 F.

(aa) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the "U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments", and the current "U.S. Public Health Service Sanitation Manual" should be used as a guide to food sanitation.

(5) Pharmaceutical Services.

(a) The PCCC shall have pharmaceutical services that meet the needs of the children and are in accordance with the Tennessee Board of Pharmacy statutes and rules. The administrator is responsible for developing policies and procedures that minimize drug errors.

(b) All internal and external medications and preparations intended for human use shall be stored separately. They shall be properly stored in medicine compartments, including cabinets on wheels, or drug rooms. Such cabinets or drug rooms shall be kept securely locked when not in use, and the key must be in the possession of the supervising nurse or other authorized persons. Poisons or external medications shall not be stored in the same compartment and shall be labeled as such.

(c) Schedule II drugs must be stored behind two (2) separately locked doors at all times and accessible only to persons in charge of administering medication.

(d) Every PCCC shall comply with all state and federal regulations governing Schedule II drugs.

(e) A notation shall be made in a Schedule II drug book and in the child's medical chart each time a Schedule II drug is given. The notation shall include the name of each child receiving the drug, name of the drug, the dosage given, the method of administration, the date and time given and the name of the physician prescribing the drug.

(f) All oral orders shall be immediately recorded, designated as such and signed by the person receiving them and countersigned by the physician within ten (10) days.

(g) All orders for drugs, devices and related materials must be in writing and signed by the practitioner or practitioners responsible for the care of the child. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they shall be:

1. Accepted only by personnel that are authorized to do so by policies and procedures, consistent with federal and state law; and,

2. Signed or initialed by the prescribing practitioner according to policy.

(h) Medications not specifically limited as to time or number of doses when ordered are controlled by automatic stop orders or other methods in accordance with written policies. No Schedule II drug shall be given or continued beyond seventy-two (72) hours without a written order by the physician.

(i) Medication administration records (MAR) shall be maintained for each child. Each dose shall be properly recorded in the medical record after it has been administered.

(Rule 1200-08-02-.06, continued)

(j) Preparation of doses for more than one scheduled administration time shall not be permitted.

(k) Medication shall be administered only by licensed medical or nursing personnel or other licensed health professionals acting within the scope of their licenses.

(l) Unless the unit dose package system is used, individual prescriptions of drugs shall be kept in the original container with the original label intact showing the name of the child, the drug, the physician, the prescription number and the date dispensed.

(m) Legend drugs shall be dispensed by a licensed pharmacist.

(n) Any unused portions of prescriptions shall be turned over to the parent(s) or only on discharge. A notation of drugs released shall be entered into the medical record. All unused prescriptions not taken by the parent and left at the PCCC must be destroyed on the premises and recorded by a pharmacist. Such record shall be kept in the PCCC.

(6) Rehabilitation Services.

(a) Physical therapy, occupational therapy and speech therapy shall be provided directly or through contractual agreement by individuals who meet the qualifications specified by PCCC policy and consistent with state law.

(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

(c)~~(b)~~ A licensed physical therapist shall be in charge of the physical therapy service and a licensed occupational therapist shall be in charge of the occupational therapy service.

(d)~~(c)~~ Direct contact shall exist between the child and the therapist for those children that require treatment ordered by a physician.

(e)~~(d)~~ If ordered by a physician, the physical therapist and the occupational therapist shall provide treatment and training designed to preserve and improve abilities for independent functions, such as: range of motion, strength, tolerance, coordination and activities of daily living.

(g)~~(e)~~ Therapy services shall be coordinated with the nursing service and made a part of the child's treatment plan.

(h)~~(f)~~ Sufficient staff shall be made available to provide the service ordered.

(7) Psychologist/Social Work Services.

(a) Social services and psychological services must be available to the children, the child's family and other persons significant to the child, in order to facilitate adjustment of these individuals to the impact of the child's illness and to promote maximum benefits from the health care services provided.

(b) Social work services shall include psychosocial assessment, counseling, coordination of discharge planning, community liaison services, financial assistance and consultation.

(Rule 1200-08-02-.06, continued)

(c) Psychological services shall include psychoanalysis, psychotherapy, psychological testing, psychoeducational evaluation therapy remediation and consultation.

(d) A child's social history shall be obtained within two (2) weeks of admission and shall be appropriately maintained.

(e) Social work services shall be provided by a qualified social worker.

(f) Facilities for social work services shall be readily accessible and shall permit privacy for interviews and counseling.

(8) Respiratory Care Services (Optional).

(a) If the PCCC provides respiratory care services, the PCCC must meet the needs of the patients in accordance with acceptable standards of practice.

(b) The organization of the respiratory care services must be appropriate to the scope and complexity of the services offered.

(c) There must be adequate numbers of licensed respiratory therapists, respiratory technicians, and other personnel to provide the ordered services.

(d) Services must be delivered in accordance with physician directives.

(e) Personnel qualified to perform specific procedures and the amount of supervision required for personnel to carry out specific procedures must be designated in writing.

(9) Infection Control.

(a) The PCCC must provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. There must be an active program for the prevention, control, and investigation of infections and communicable diseases.

(b) The administrator shall assure that an infection control program, including members of the multidisciplinary staff such as nursing and administrative staff, develop guidelines and techniques for the prevention, surveillance, control and reporting of facility infections. Duties of the program shall include the establishment of:

1. Written infection control policies;

2. Techniques and systems for identifying, reporting, investigating and controlling infections in the facility;

3. Written procedures governing the use of aseptic techniques and procedures in the facility;

4 Written procedures concerning food handling, laundry practices, disposal of environmental and human wastes, traffic control and visiting rules, sources of air pollution, and routine culturing of autoclaves and sterilizers;

5. A log of incidents related to infectious and communicable diseases;

6. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing, proper grooming, masking, dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of equipment and supplies; and,

7. Continuing education for all facility personnel on the cause, effect, transmission, prevention, and elimination of infections.

(c) The administrator must ensure that the facility-wide performance improvement program and training programs address problems identified by the infection control program and must be responsible for the implementation of successful corrective action plans in affected problem areas.

(d) Parents of every child enrolled shall be notified immediately if one of the following communicable diseases has been introduced into the child care center: hepatitis A, foodborne outbreaks (food poisoning) salmonella, shigella, measles, mumps, rubella, pertussis, polio, haemophilus influenza type B, meningococcal meningitis. The PCCC shall report the occurrence of the above diseases to the local health department.

(e) Impetigo and diagnosed strep shall be treated appropriately for 24 hours prior to readmission to the center. Children having scabies or lice shall have proof of treatment to be readmitted. The PCCC shall provide care and/or isolation for a child with a contagious condition only if written instructions of a licensed physician or certified health care provider are obtained first.

(f) The PCCC shall develop policies and procedures for testing a child's blood for the presence of the hepatitis B virus and the HIV virus in the event that an employee of the facility, a student studying at the facility, or other health care provider rendering services at the facility is exposed to a child's blood or other body fluid. The testing shall be performed at no charge to the child and the test results shall be confidential.

(g) The facility and its employees shall adopt and utilize standard or universal precautions of the Centers for Disease Control (CDC) for preventing transmission of infections, HIV, and communicable diseases.

(h) All PCCCs shall adopt appropriate policies regarding the testing of children and staff for HIV and any other identified causative agent of acquired immune deficiency syndrome.

(i) Precautions shall be taken to prevent the contamination of sterile supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents. Decontamination and preparation areas shall be separated.

(j) Space and facilities for housekeeping equipment and supplies shall be provided in each service area. Storage for bulk supplies and equipment shall be located away from child care areas. The building shall be kept in good repair, clean, sanitary and safe at all times.

(10) Performance Improvement.

(a) The PCCC must ensure that there is an effective, facility-wide performance improvement program to evaluate child care and performance of the organization.

(b) The performance improvement program must be ongoing and have a written plan of implementation which assures that:

1. All organized services related to child care, including services furnished by a contractor, are evaluated;

2. Nosocomial infections and medication therapy are evaluated; and,

(Rule 1200-08-02-.06, continued)

3. All services performed in the facility are evaluated as to the appropriateness of diagnosis and treatment.

(c) The PCCC must have an ongoing plan, consistent with available community and facility resources, to provide or make available services that meet the medically-related needs of its children.

(d) The facility must develop and implement plans for improvement to address deficiencies identified by the performance improvement program and must document the outcome of the remedial action.

(e) Performance improvement program records shall be disclosable to the Department to demonstrate compliance with this section.

(f) Good faith attempts by the performance improvement program committee to identify and correct deficiencies will not be used as a basis for sanctions.

(11) Transportation Services (If Provided)

(a) If a PCCC provides transportation, its management shall recognize its full responsibility for the child between home and facility and on field trips. On field trips or when transporting children between home and the facility, staff shall maintain an accurate list of children being transported and shall take roll frequently. The driver or accompanying staff member shall assure that every child is received by a parent or other designated person. The owner of the vehicle shall carry adequate liability insurance.

(b) Parents shall be notified of each field trip and notification documented.

(c) Vehicles used to transport children shall be maintained in safe working condition. Regular scheduled inspections shall be documented. Documentation of regular maintenance shall be kept on file in the facility. (See Appendix A)

(d) The driver shall comply with the health requirements as specified in Appendix C of these Rules.

(e) On field trips off premises, at least two (2) adults shall be in the vehicle, in addition to the driver.

(f) Children shall always be attended by a licensed nurse while in a vehicle.

(g) The number of infants and other non-ambulatory children transported by one licensed nurse shall be limited to six. A second licensed nurse shall be in the vehicle supervising the children when seven or more children are being transported.

(h) Transportation provided by the PCCC or under PCCC auspices shall comply with state law.

(i) All children and the driver shall be secured in individual passenger restraint devices at all times during the transportation by the PCCC or under PCCC auspices. Exception: Children four (4) years of age and older transported by a school bus or public transportation are not required to be restrained because these vehicles are not required to be equipped with restraint devices.

(j) No child shall be allowed to ride on the floor of a vehicle, and no child shall be placed with another child in the same restraint device.

(Rule 1200-08-02-.06, continued)

(k) Drivers of any vehicle used to transport children shall have a proper license and endorsement required for the transportation of the number of passengers transported and the vehicle size and weight as required in Chapter 50 of Title 55 of the Tennessee Code Annotated.

(l) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced by all staff responsible for transporting children on a regular basis.

(m) Storage of firearms is prohibited in vehicles used to transport children.

(n) A minimum of ten (10) inches seat space per child is required in a vehicle transporting children.

(o) Children shall not spend more than ninety (90) minutes traveling one way.

(12) Recreational Services.

(a) The PCCC shall provide opportunities for recreational activities appropriate to the needs, interests, and ages of the children being served.

(b) Equipment needs for Children:

1. General

(i) All indoor and outdoor equipment shall be well made and safe. There shall be no dangerous angles, no sharp edges, splinters, or nails sticking out, no open S-hooks or pinch points within children's reach.

(ii) Damaged equipment shall be repaired or removed from the room or playground immediately.

(iii) Equipment shall be kept clean by washing frequently with soap and water.

(iv) There shall be developmentally appropriate equipment and furnishings for each age group in attendance.

(v) Material and equipment shall be provided to meet the needs of all the children enrolled.

(vi) Individual lockers, separate hooks and shelves or other containers (placed at children's reaching level for mobile children) shall be provided for each child's belongings.

2. Indoor Play Equipment

(i) Pieces of equipment, such as television sets, bookcases and appliances, shall be secured or supported so that they will not fall or tip over.

(ii) Indoor equipment, materials, and toys shall be available to:

(I) Meet active and quiet play needs of all children enrolled;

(II) Provide a variety of developmentally appropriate activities so that each child has at least three choices during play time; and

(III) Adequately provide for all the activities required in other sections of this rule.

(iii) Toys, educational and play materials shall be organized and displayed within children's reach so that, if physically able, they can select and return items independently.

(iv) Teaching aids that are small or that have small parts that can be inhaled or swallowed shall be inaccessible to infants and toddlers.

3. Outdoor Play Equipment (Optional)

(i) All outdoor play equipment shall be sufficient in amount and variety so that children can take part in many kinds of play each day.

(ii) The Consumer Products Safety Commission's "Handbook on Public Playground Safety" or similar authority shall be used for guidance on playground construction and maintenance.

(iii) All outdoor play equipment shall be placed to avoid injury. Fall zones shall extend at least four (4) feet and preferably six (6) feet away from the perimeter of equipment and away from retainer structures, fences, and other equipment and out of children's traffic paths.

(iv) Resilient surfacing material shall cover fall zones at a recognized acceptable depth. (See Appendix B)

(v) Supports for climbers, swings, and other heavy equipment that could cause injury if toppled shall be securely anchored to the ground, even if the equipment is designed to be portable.

(13) Environmental Services.

(a) Environmental services shall be provided to assure the clean and sanitary condition of the PCCC and to provide a safe and hygienic environment for children and staff. Cleaning shall be accomplished in accordance with the infection control rules and regulations herein and PCCC policy; and

(b) There shall be verification of regular continuing education and competency for basic housekeeping principles.

(c) Each facility shall have routine cleaning of articles and surfaces such as furniture, floors, walls, ceilings, supplies, exhaust, grills and lighting fixtures.

(d) Sufficient and proper cleaning supplies and equipment shall be available to housekeeping staff. Cleaning supplies, toxic substances and equipment shall be secured at all times to prevent access by children. Toxic substances shall not be left unattended when not secured.

(e) A closet for janitorial supplies shall be provided.

(f) Storage for bulk supplies and equipment shall be located away from child care areas. Storage shall not be allowed in the outmost shipping carton.

(g) The building shall be kept in good repair, clean, sanitary and safe at all times.

(Rule 1200-08-02-.06, continued)

(14) Laundry Services.

(a) Laundry services shall:

1. Provide space for storage of clean linen within nursing units and for bulk storage within clean areas of the PCCC; and

2. Provide carts, bags or other acceptable containers appropriately marked to identify those used for soiled linen and those used for clean linen to prevent dual utilization of the equipment and cross contamination.

(b) The PCCC shall name an individual who is responsible for laundry service. This individual shall be responsible for:

1. Establishing a laundry service, either within the PCCC or by contract, that provides the facility with sufficient clean, sanitary linen at all times;

2. Knowing and enforcing infection control rules and regulations for the laundry service;

3. Assuring the collection, packaging, transportation and storage of soiled, contaminated, and clean linen is in accordance with all applicable infection control rules and procedures; and,

4. Assuring that a contract laundry service complies with all applicable infection control rules and procedures.

Authority: *§§ 4-5-202, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-216, and 68-11-222.* ***Administrative History:*** *Original rule filed June 13, 2002; effective August 27, 2002. Amenment filed December 16, 2013; effective March 16, 2014.*

1200-08-02-.07 BUILDING STANDARDS.

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

(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2005 edition of the National Electrical Code; and the 2005 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.

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

CHAPTER 1200-08-06
STANDARDS FOR NURSING HOMES

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1200-08-06-.01 DEFINITIONS.

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

(2) Administrator. A person currently licensed as such by the Tennessee Board of Examiners for Nursing Home Administrators.

(3) Adult. An individual who has capacity and is at least 18 years of age.

(4) Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) Board. The Tennessee Board for Licensing Health Care Facilities.

(7) Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a resident to make health care decisions while having the capacity to do so. A resident shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a resident shall have the burden of proving lack of capacity.

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

(9) Certified Nurse Aide or Certified Nursing Assistant. An individual who has successfully completed an approved nursing assistant training program and is registered with the department.

(Rule 1200-08-06-.01, continued)

(10) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(11)~~(10)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(12)~~(11)~~ Competent. A resident who has capacity.

(13)~~(12)~~ Department. The Tennessee Department of Health.

(14)~~(13)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(15)~~(14)~~ Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners. Persons exempt from licensure shall be registered with the American Dietetics Association pursuant to T.C.A. § 63-25-104.

(16)~~(15)~~ Director of Nursing (DON). A Registered Nurse employed full time in a nursing home who satisfies the responsibilities set forth in this chapter.

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

(18)~~(17)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(19)~~(18)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(20)~~(19)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(21)~~(20)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state or federal regulations.

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

(23)~~(22)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(24)~~(23)~~ Health Care Decision-maker. In the case of a resident who lacks capacity, the resident's health care decision-maker is one of the following: the resident's health care agent as specified in an advance directive, the resident's court-appointed guardian or conservator with health care decision-making authority, the resident's surrogate as determined pursuant to Rule 1200-08-06-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(25)~~(24)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(Rule 1200-08-06-.01, continued)

(26)~~(25)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(27)~~(26)~~ Hospital. Any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with the services of a physician or dentist, of one (1) or more nonrelated persons who may be suffering from deformity, injury or disease or from any other condition for which nursing, medical or surgical services would be appropriate for care, diagnosis or treatment.

(28)~~(27)~~ Hospitalization. The reception and care of any person for a continuous period longer than twenty-four (24) hours, for the purpose of giving advice, diagnosis, nursing service or treatment bearing on the physical health of such person, and maternity care involving labor and delivery for any period of time.

(29)~~(28)~~ Incompetent. A resident who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(30)~~(29)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(32)~~(31)~~ Involuntary Transfer. The movement of a resident between nursing homes, without the consent of the resident, the resident's legal guardian, next of kin or representative.

(33)~~(32)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(34)~~(33)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(35)~~(34)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(36)~~(35)~~ Medical Director. A licensed physician employed by the nursing home to be responsible for medical care in the facility.

(37)~~(36)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the resident's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(38)~~(37)~~ Medical Equipment. Equipment used for the diagnosis, treatment and monitoring of patients, including, but not limited to, oxygen care equipment and oxygen delivery systems, enteral and parenteral feeding pumps, and intravenous pumps.

(39)~~(38)~~ Medical Record. Medical histories, records, reports, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, x-rays, radiology interpretations and other written, electronic, or graphic data prepared, kept, made or maintained in a facility that pertains to confinement or services rendered to residents.

(Rule 1200-08-06-.01, continued)

(40)~~(39)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the resident or other medical or surgical treatments to achieve the expressed goals of the informed resident. In the case of the incompetent resident, the resident's representative expresses the goals of the resident.

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

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

(43)~~(42)~~ NFPA. The National Fire Protection Association.

(44)~~(43)~~ Nurse Aide or Nursing Assistant Training Program. A specialized program approved by the Department to provide classroom instruction and supervised clinical experience for individuals who wish to be employed as Nurse Aides or Nursing Assistants.

(45)~~(44)~~ Nursing Personnel. Licensed nurses and certified nurse aides who provide nursing care.

(46)~~(45)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(47)~~(46)~~ Patient Abuse. Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.

(48)~~(47)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(49)~~(48)~~ Personally Informing. A communication by any effective means from the resident directly to a health care provider.

(50)~~(49)~~ Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.

(51)~~(50)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

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

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

(Rule 1200-08-06-.01, continued)

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

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

(c)

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

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

3. Specify both 1 and 2.

(54)~~(53)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

(55)~~(54)~~ Podiatrist. A person currently licensed as such by the Tennessee Board of Registration in Podiatry.

(56)~~(55)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(57)~~(56)~~ Program Coordinator. A registered nurse who possesses a minimum of two years nursing experience with at least one year in long term care and is responsible for ensuring that the requirements of the Nurse Aide Training Program are met.

(58)~~(57)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(59)~~(58)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the resident's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(60)~~(59)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(61)~~(60)~~ Resident/Patient. Includes but is not limited to any person who is suffering from an illness or injury and who is in need of nursing care.

(62)~~(61)~~ Secured Unit. A facility or distinct part of a facility where residents are intentionally denied egress by any means.

(63)~~(62)~~ Shall or Must. Compliance is mandatory.

(64)~~(63)~~ Social Worker. In a facility with more than 120 beds a qualified social worker is an individual with:

(a) A bachelor's degree in social work or a bachelor's degree in a human services field including but not limited to sociology, special education, rehabilitation counseling, and psychology; and,

(Rule 1200-08-06-.01, continued)

(b) One year of supervised social work experience in a health care setting working directly with individuals.

~~(64) Speech Therapist. A person currently licensed as such by the Tennessee Board of Communication Disorders and Sciences.~~

(65) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

(66)~~(65)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(67)~~(66)~~ Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board.

(68)~~(67)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(69)~~(68)~~ Surrogate. An individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident.

(70)~~(69)~~ Survey. An on-site examination by the department to determine the quality of care and/or services provided.

(71)~~(70)~~ Transfer. The movement of a resident between nursing homes at the direction of a physician or other qualified medical personnel when a physician is not readily available. The term does not include movement of a resident who leaves the facility against medical advice. The term does not apply to the commitment and movement of mentally ill and mentally retarded persons, the discharge or release of a resident no longer in need of nursing home care, or a nursing home's refusal, after an appropriate medical screening, to render any medical care on the grounds that the person does not have a medical need for nursing home care.

(72)~~(71)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the resident.

(73)~~(72)~~ Treating Physician. The physician selected by or assigned to the resident and who has the primary responsibility for the treatment and care of the resident. Where more than one physician shares such responsibility, any such physician may be deemed to be the "treating physician."

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-234, 68-11-1802, and 71-6-121.* ***Administrative History:*** *Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed September 21, 2005; effective December 5, 2005. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed January 3, 2012; effective April 2, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*

1200-08-06-.02 LICENSING PROCEDURES.

(Rule 1200-08-06-.05, continued)

(10) No resident shall be transferred without a written order from the attending physician or through other legal processes and timely notification of next of kin and/or sponsor or authorized representative, if any.

(11) When a resident is transferred, a summary of treatment given at the nursing home, condition of the resident at time of transfer and date and place to which he is transferred shall be entered in the record. If the transfer is due to an emergency, this information will be recorded within forty-eight (48) hours, otherwise, it will precede the transfer of the resident.

(12) When a resident is transferred, a copy of the clinical summary shall, with consent of the resident, be sent to the nursing home that will continue the care of the resident.

(13) Where an involuntary transfer is proposed, in addition to any other relevant factors, the following factors shall be taken into account:

(a) The traumatic effect on the resident.

(b) The proximity of the proposed nursing home to the present nursing home and to the family and friends of the resident.

(c) The availability of necessary medical and social services at the proposed nursing home.

(d) Compliance by the proposed nursing home with all applicable Federal and State regulations.

(14) When the attending physician has ordered a resident transferred or discharged, but the resident or a representative of the resident opposes the action, the nursing home shall counsel with the resident, the next of kin, sponsor and representative, if any, in an attempt to resolve the dispute and shall not transfer the resident until such counseling has been provided. No involuntary transfer or discharge shall be made until the nursing home has first informed the department and the area long-term care ombudsman. Unless a disaster occurs on the premises or the attending physician orders the transfer as a medical emergency (due to the resident's immediate need for a higher level of care) no involuntary transfer or discharge shall be made until five (5) business days after these agencies have been notified, unless they each earlier declare that they have no intention of intervening.

(15) Except when the Board has revoked or suspended the license, a nursing home which intends to close, cease doing business, or reduce its licensed bed capacity by ten percent (10%) or more shall notify both the department and the area long-term care ombudsman at the earliest moment of the decision, but not later than thirty (30) days before the action is to be implemented. The facility shall establish a protocol, subject to the department's approval, for the transfer or discharge of the residents. Should the nursing home violate the provisions of this paragraph, the department shall request the Attorney General of the State of Tennessee to intervene to protect the residents, as is provided by T.C.A. § 68-11-213(a).

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-257, and 71-6-121.* ***Administrative History:*** *Original rule filed March 27; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed April 17, 2007; effective July 1, 2007.*

1200-08-06-.06 BASIC SERVICES.

(1) Performance Improvement.

(Rule 1200-08-06-.06, continued)

(a) The nursing home must ensure that there is an effective, facility-wide performance improvement program to evaluate resident care and performance of the organization.

(b) The performance improvement program must be ongoing and have a written plan of implementation which assures that:

1. All organized services related to resident care, including services furnished by a contractor, are evaluated;

2. Nosocomial infections and medication therapy are evaluated;

3. All services performed in the facility are evaluated as to the appropriateness of diagnosis and treatment; and

4. The facility shall develop and implement a system for measuring improvements in adherence to the hand hygiene program and influenza vaccination program.

(c) The nursing home must have an ongoing plan, consistent with available community and facility resources, to provide or make available services that meet the medically-related needs of its residents.

(d) The facility must develop and implement plans for improvement to address deficiencies identified by the performance improvement program and must document the outcome of the remedial action.

(e) Performance improvement program records are not disclosable, except when such disclosure is required to demonstrate compliance with this section.

(f) Good faith attempts by the performance improvement program committee to identify and correct deficiencies will not be used as a basis for sanctions.

(2) Physician Services.

(a) Policies and procedures concerning services provided by the nursing home shall be available for the admitting physicians.

(b) Residents shall be aided in receiving dental care as deemed necessary.

(c) Each nursing home shall retain by written agreement a physician to serve as a Medical Director.

(d) The Medical Director shall be responsible for the medical care in the nursing home. The Medical Director shall:

1. Delineate the responsibilities of and communicate with attending physicians to ensure that each resident receives medical care;

2. Ensure the delivery of emergency and medical care when the resident's attending physician or his/her designated alternate is unavailable;

3. Review reports of all accidents or unusual incidents occurring on the premises, identifying hazards to health and safety and recommending corrective action to the administrator;

4. Make periodic visits to the nursing home to evaluate the existing conditions and make recommendations for improvements;

(Rule 1200-08-06-.06, continued)

5. Review and take appropriate action on reports from the Director of Nursing regarding significant clinical developments;

6. Monitor the health status of nursing home personnel to ensure that no health conditions exist which would adversely affect residents; and,

7. Advise and provide consultation on matters regarding medical care, standards of care, surveillance and infection control.

(3) Infection Control.

(a) The nursing home must provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. There must be an active program for the prevention, control, and investigation of infections and communicable diseases.

(b) The physical environment shall be maintained in such a manner to assure the safety and well being of the residents.

1. Any condition on the nursing home site conducive to the harboring or breeding of insects, rodents or other vermin shall be prohibited. Chemical substances of a poisonous nature used to control or eliminate vermin shall be properly identified. Such substances shall not be stored with or near food or medications.

2. Cats, dogs or other animals shall not be allowed in any part of the facility except for specially trained animals for the handicapped and except as addressed by facility policy for pet therapy programs. The facility shall designate in its policies and procedures those areas where animals will be excluded. The areas designated shall be determined based upon an assessment of the facility performed by medically trained personnel.

3. Telephones shall be readily accessible and at least one (1) shall be equipped with sound amplification and shall be accessible to wheelchair residents.

4. Equipment and supplies for physical examination and emergency treatment of residents shall be available.

5. A bed complete with mattress and pillow shall be provided. In addition, resident units shall be provided with at least one chair, a bedside table, an over bed tray and adequate storage space for toilet articles, clothing and personal belongings.

6. Individual wash cloths, towels and bed linens must be provided for each resident. Linen shall not be interchanged from resident to resident until it has been properly laundered.

7. Bath basin water service, emesis basin, bedpan and urinal shall be individually provided.

8. Water pitchers, glasses, thermometers, emesis basins, douche apparatus, enema apparatus, urinals, mouthwash cups, bedpans and similar items of equipment coming into intimate contact with residents shall be disinfected or sterilized after each use unless individual equipment for each is provided and then sterilized or disinfected between residents and as often as necessary to maintain them in a clean and sanitary condition. Single use, resident disposable items are acceptable but shall not be reused.

(Rule 1200-08-06-.06, continued)

9. The facility shall have written policies and procedures governing care of residents during the failure of the air conditioning, heating or ventilation system, including plans for hypothermia and hyperthermia. When the temperature of any resident area falls below 65° F. or exceeds 85° F., or is reasonably expected to do so, the facility shall be alerted to the potential danger, and the department shall be notified.

(c) The administrator shall assure that an infection control program including members of the medical staff, nursing staff and administrative staff develop guidelines and techniques for the prevention, surveillance, control and reporting of facility infections. Duties of the program shall include the establishment of:

1. Written infection control policies;

2. Techniques and systems for identifying, reporting, investigating and controlling infections in the facility;

3. Written procedures governing the use of aseptic techniques and procedures in the facility;

4. Written procedures concerning food handling, laundry practices, disposal of environmental and resident wastes, traffic control and visiting rules, sources of air pollution, and routine culturing of autoclaves and sterilizers;

5. A log of incidents related to infectious and communicable diseases;

6. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing, proper grooming, masking, dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of resident care equipment and supplies; and,

7. Continuing education for all facility personnel on the cause, effect, transmission, prevention, and elimination of infections.

(d) The administrator, the medical staff and director of nursing services must ensure that the facility-wide performance improvement program and training programs address problems identified by the infection control program and must be responsible for the implementation of successful corrective action plans in affected problem areas.

(e) The facility shall develop policies and procedures for testing a resident's blood for the presence of the hepatitis B virus and the HIV virus in the event that an employee of the facility, a student studying at the facility, or other health care provider rendering services at the facility is exposed to a resident's blood or other body fluid. The testing shall be performed at no charge to the resident, and the test results shall be confidential.

(f) The facility and its employees shall adopt and utilize standard precautions (per 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 patient contact if hands are not visibly soiled;

(Rule 1200-08-06-.06, continued)

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

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

(g) All nursing homes shall adopt appropriate policies regarding the testing of residents and staff for HIV and any other identified causative agent of acquired immune deficiency syndrome.

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

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

(i) The facility shall have an annual influenza vaccination program which shall include at least:

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

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

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

   (i) Flu vaccination,

   (ii) Non-vaccine control measures, and

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

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

5. The requirements to complete vaccinations or declination statements are suspended by the Medical Director in the event of a vaccine shortage.

(j) Precautions shall be taken to prevent the contamination of sterile supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents. Decontamination and preparation areas shall be separated.

(k) Space and facilities for housekeeping equipment and supply storage shall be provided in each service area. Storage for bulk supplies and equipment shall be located away from patient care areas. The building shall be kept in good repair, clean, sanitary and safe at all times.

(l) The facility shall appoint a housekeeping supervisor who shall be responsible for:

1. Organizing and coordinating the facility's housekeeping service;

2. Acquiring and storing sufficient housekeeping supplies and equipment for facility maintenance; and,

3. Assuring the clean and sanitary condition of the facility to provide a safe and hygienic environment for residents and staff. Cleaning shall be accomplished in accordance with the infection control rules herein and facility policy.

(m) Laundry facilities located in the nursing home shall:

1. Be equipped with an area for receiving, processing, storing and distributing clean linen;

2. Be located in an area that does not require transportation for storage of soiled or contaminated linen through food preparation, storage or dining areas;

3. Provide space for storage of clean linen within nursing units and for bulk storage within clean areas of the facility; and,

4. Provide carts, bags or other acceptable containers appropriately marked to identify those used for soiled linen and those used for clean linen to prevent dual utilization of the equipment and cross contamination.

(n) The facility shall name an individual who is responsible for laundry service. This individual shall be responsible for:

1. Establishing a laundry service, either within the nursing home or by contract, that provides the facility with sufficient clean, sanitary linen at all times;

2. Knowing and enforcing infection control rules and regulations for the laundry service;

3. Assuring the collection, packaging, transportation and storage of soiled, contaminated, and clean linen is in accordance with all applicable infection control rules and procedures; and,

(Rule 1200-08-06-.06, continued)

4. Assuring that a contract laundry service complies with all applicable infection control rules and procedures.

(4) Nursing Services.

(a) Each nursing home must have an organized nursing service that provides twenty-four (24) hour nursing services furnished or supervised by a registered nurse. Each home shall have a licensed practical nurse or registered nurse on duty at all times and at least two (2) nursing personnel on duty each shift.

(b) The facility must have a well-organized nursing service with a plan of administrative authority and delineation of responsibilities for resident care. The Director of Nursing (DON) must be a licensed registered nurse who has no current disciplinary actions against his/her license. The DON is responsible for the operation of the service, including determining the types and numbers of nursing personnel and staff necessary to provide nursing care for all areas of the facility.

(c) The Director of Nursing shall have the following responsibilities:

1. Develop, maintain and periodically update:

(i) Nursing service objectives and standards of practice;

(ii) Nursing service policy and procedure manuals;

(iii) Written job descriptions for each level of nursing personnel;

(iv) Methods for coordination of nursing service with other resident services; and,

(v) Mechanisms for monitoring quality of nursing care, including the periodic review of medical records.

2. Participate in selecting prospective residents in terms of the nursing services they need and nursing competencies available.

3. Make daily rounds to see residents.

4. Notify the resident's physician when medically indicated.

5. Review each resident's medications periodically and notify the physician where changes are indicated.

6. Supervise the administration of medications.

7. Supervise assignments of the nursing staff for the direct care of all residents.

8. Plan, develop and conduct monthly in-service education programs for nursing personnel and other employees of the nursing home where indicated. An organized orientation program shall be developed and implemented for all nursing personnel.

9. Supervise and coordinate the feeding of all residents who need assistance.

(Rule 1200-08-06-.06, continued)

10. Coordinate the dietary requirements of residents with the staff responsible for the dietary service.

11. Coordinate housekeeping personnel.

12. Assure that discharge planning is initiated in a timely manner.

13. Assure that residents, along with their necessary medical information, are transferred or referred to appropriate facilities, agencies or outpatient services, as needed, for follow-up or ancillary care.

(d) The nursing service must have adequate numbers of licensed registered nurses, licensed practical nurses, and certified nurse aides to provide nursing care to all residents as needed. Nursing homes shall provide a minimum of two (2) hours of direct care to each resident every day including 0.4 hours of licensed nursing personnel time. There must be supervisory and staff personnel for each department or nursing unit to ensure, when needed, the availability of a licensed nurse for bedside care of any resident.

(e) A registered nurse must supervise and evaluate the nursing care for each resident.

(f) The facility must ensure that an appropriate individualized plan of care is prepared for each resident with input from appropriate disciplines, the resident and/or the resident's family or the resident's representative.

(g) A registered nurse must assign the nursing care of each resident to other nursing personnel in accordance with the resident's needs and the specialized qualifications and competence of the nursing staff available.

(h) Non-employee licensed nurses who are working in the nursing home must adhere to the policies and procedures of the facility. The director of the nursing service must provide for the adequate supervision and evaluation of the clinical activities of non-employee nursing personnel which occur within the responsibility of the nursing service.

(i) All drugs, devices and related materials must be administered by, or under the supervision of, nursing or other personnel in accordance with federal and state laws and regulations, including applicable licensing requirements, and in accordance with the approved medical staff policies and procedures.

(j) There must be a facility procedure for reporting adverse drug reactions and errors in administration of drugs.

(k) When non-employees are utilized as sitters or attendants, they shall be under the authority of the nursing service and their duties shall be set forth clearly in written nursing service policies.

(l) Each resident shall be given proper personal attention and care of skin, feet, nails and oral hygiene in addition to the specific professional nursing care as ordered by the resident's physician.

(m) Medications, treatments, and diet shall be carried out as prescribed to safeguard the resident, to minimize discomfort and to attain the physician's objective.

(n) Residents shall have baths or showers at least two (2) times each week, or more often if requested by the resident.

(Rule 1200-08-06-.06, continued)

(o) Body position of residents in bed or chair bound shall be changed at least every two (2) hours, day and night, while maintaining good body alignment. Proper skin care shall be provided for bony prominences and weight bearing parts to prevent discomfort and the development of pressure areas, unless contraindicated by physician's orders.

(p) Residents who are incontinent shall have partial baths each time the bed or bed clothing has been wet or soiled. The soiled or wet bed linen and the bed clothing shall be replaced with clean, dry linen and clothing immediately after being soiled.

(q) Residents shall have shampoos, haircuts and shaves as needed, or desired.

(r) Rehabilitation measures such as assisting patients with range of motion, prescribed exercises and bowel and bladder retraining programs shall be carried out according to the individual needs and abilities of the resident.

(s) Residents shall be active and out of bed except when contraindicated by written physician's orders.

(t) Residents shall be encouraged to achieve independence in activities of daily living, self-care, and ambulation as a part of daily care.

(u) Residents shall have clean clothing as needed and shall be kept free from odor.

(v) Residents' weights shall be taken and recorded at least monthly unless contraindicated by a physician's order.

(w) Physical restraints shall be checked every thirty (30) minutes and released every two (2) hours so the resident may be exercised and offered toilet access.

(x) Restraints may be applied or administered to residents only on the signed order of a physician. The signed physician's order must be for a specified and limited period of time and must document the necessity of the restraint. There shall be no standing orders for restraints.

(y) When a resident's safety or safety of others is in jeopardy, the nurse in charge shall use his/her judgment to use physical restraints if a physician's order cannot be immediately obtained. A written order must be obtained as soon as possible.

(z) Locked restraints are prohibited.

(aa) Assistance with eating shall be given to the resident as needed in order for the resident to receive the diet for good health care.

(bb) Abnormal food intake will be evaluated and recorded.

(cc) A registered nurse may make the actual determination and pronouncement of death under the following circumstances:

1. The deceased was a resident of a nursing home;

2. The death was anticipated, and the attending physician or nursing home medical director has agreed in writing to sign the death certificate. Such agreement by the attending physician or nursing home medical director must be present with the deceased at the place of death;

(Rule 1200-08-06-.06, continued)

3. The nurse is licensed by the state; and,

4. The nurse is employed by the nursing home in which the deceased resided.

(5) Medical Records.

(a) The nursing home shall comply with the Tennessee Medical Records Act, T.C.A. §§ 68-11-301, et seq.

(b) The nursing home must maintain a medical record for each resident. Medical records must be accurate, promptly completed, properly filed and retained, and accessible. The facility must use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries.

(c) All medical records, in either written, electronic, graphic or otherwise acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least ten (10) years after which such records may be destroyed. However, in cases of residents under mental disability or minority, their complete facility records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the resident, whichever is longer. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of the contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the facility's policies and procedures, and no record may be destroyed on an individual basis.

(d) When a nursing home closes with no plans of reopening, an authorized representative of the facility may request final storage or disposition of the facility's medical records by the department. Upon transfer to the department, the facility relinquishes all control over final storage of the records and the files shall become property of the State of Tennessee.

(e) The nursing home must have a system of coding and indexing medical records. The system must allow for timely retrieval by diagnosis and procedure.

(f) The nursing home must have a procedure for ensuring the confidentiality of resident records. Information from or copies of records may be released only to authorized individuals, and the facility must ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records must be released by the facility only in accordance with federal and state laws, court orders or subpoenas.

(g) The medical record must contain information to justify admission, support the diagnosis, and describe the resident's progress and response to medications and services.

(h) All entries must be legible, complete, dated and authenticated according to facility policy.

(i) All records must document the following:

1. Evidence of a physical examination, including a health history, performed no more than thirty (30) days prior to admission or within forty-eight (48) hours following admission;

2. Admitting diagnosis;

(Rule 1200-08-06-.06, continued)

3. A dietary history as part of each resident's admission record;

4. Results of all consultative evaluations of the resident and appropriate findings by clinical and other staff involved in the care of the resident;

5. Documentation of complications, facility acquired infections, and unfavorable reactions to drugs;

6. Properly executed informed consent forms for procedures and treatments specified by facility policy, or by federal or state law if applicable, as requiring written resident consent;

7. All practitioners' orders, nursing notes, reports of treatment, medication records, radiology and laboratory reports, and vital signs and other information necessary to monitor the resident's condition;

8. Discharge summary with disposition of case and plan for follow-up care; and,

9. Final diagnosis with completion of medical records within thirty (30) days following discharge.

(j) Electronic and computer-generated records and signature entries are acceptable.

(6) Pharmaceutical Services.

(a) The nursing home shall have pharmaceutical services that meet the needs of the residents and are in accordance with the Tennessee Board of Pharmacy statutes and rules. The medical staff is responsible for developing policies and procedures that minimize drug errors.

(b) All internal and external medications and preparations intended for human use shall be stored separately. They shall be properly stored in medicine compartments, including cabinets on wheels, or drug rooms. Such cabinets or drug rooms shall be kept securely locked when not in use, and the key must be in the possession of the supervising nurse or other authorized persons. Poisons or external medications shall not be stored in the same compartment and shall be labeled as such.

(c) Schedule II drugs must be stored behind two (2) separately locked doors at all times and accessible only to persons in charge of administering medication.

(d) Every nursing home shall comply with all state and federal regulations governing Schedule II drugs.

(e) A notation shall be made in a Schedule II drug book and in the resident's nursing notes each time a Schedule II drug is given. The notation shall include the name of the resident receiving the drug, name of the drug, the dosage given, the method of administration, the date and time given and the name of the physician prescribing the drug.

(f) All oral orders shall be immediately recorded, designated as such and signed by the person receiving them and countersigned by the physician within ten (10) days.

(g) All orders for drugs, devices and related materials must be in writing and signed by the practitioner or practitioners responsible for the care of the resident. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they shall be:

(Rule 1200-08-06-.06, continued)

1. Accepted only by personnel that are authorized to do so by the medical staff policies and procedures, consistent with federal and state law; and,

2. Signed or initialed by the prescribing practitioner according to nursing home policy.

(h) Medications not specifically limited as to time or number of doses when ordered are controlled by automatic stop orders or other methods in accordance with written policies. No Schedule II drug shall be given or continued beyond seventy-two (72) hours without a written order by the physician.

(i) Medication administration records (MAR) shall be checked against the physician's orders. Each dose shall be properly recorded in the clinical record after it has been administered.

(j) Preparation of doses for more than one scheduled administration time shall not be permitted.

(k) Medication shall be administered only by licensed medical or licensed nursing personnel or other licensed health professionals acting within the scope of their licenses.

(l) Unless the unit dose package system is used, individual prescriptions of drugs shall be kept in the original container with the original label intact showing the name of the resident, the drug, the physician, the prescription number and the date dispensed.

(m) Legend drugs shall be dispensed by a licensed pharmacist.

(n) Any unused portions of prescriptions shall be turned over to the resident only on a written order by the physician. A notation of drugs released to the resident shall be entered into the medical record. All unused prescriptions left in a nursing home must be destroyed on the premises and recorded be a pharmacist. Such record shall be kept in the nursing home.

(7) Radiology Services. The nursing home must maintain or have available diagnostic radiologic services according to the needs of the residents. If therapeutic services are also provided, they, as well as the diagnostic services, must meet professionally approved standards for safety and personnel qualifications.

(8) Laboratory Services. The nursing home must maintain or have available, either directly or through a contractual agreement, adequate laboratory services to meet the needs of the residents. The nursing home must ensure that all laboratory services provided to its residents are performed in a facility licensed in accordance with the Tennessee Medical Laboratory Act (TMLA). All technical laboratory staff shall be licensed in accordance with the TMLA and shall be qualified by education, training and experience for the type of services rendered.

(9) Food and Dietetic Services.

(a) The nursing home must have organized dietary services that are directed and staffed by adequate qualified personnel. A facility may contract with an outside food management company if the company has a dietitian who serves the facility on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this paragraph and provides for constant liaison with the facility medical staff for recommendations on dietetic policies affecting resident treatment. If an outside contract is utilized for management of its dietary services, the facility shall

(Rule 1200-08-06-.06, continued)

designate a full-time employee to be responsible for the overall management of the services.

(b) The nursing home must designate a person, either directly or by contractual agreement, to serve as the food and dietetic services director with responsibility for the daily management of the dietary services. The food and dietetic services director shall be:

1. A qualified dietitian; or,

2. A graduate of a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association; or,

3. An individual who has successfully completed in-person or online coursework that provided ninety (90) or more hours of classroom instruction in food service supervision. If the course has not been completed, this person shall be enrolled in a course and making satisfactory progress for completion within the time limit specified by the course requirement; or,

4. An individual who is a certified dietary manager (CDM), or certified food protection professional (CFPP); or,

5. A current or former member of the U.S. military who has graduated from an approved military dietary manager training program.

(c) There must be a qualified dietitian, full time, part-time, or on a consultant basis, who is responsible for the development and implementation of a nutrition care process to meet the needs of residents for health maintenance, disease prevention and, when necessary, medical nutrition therapy to treat an illness, injury or condition. Medical nutrition therapy includes assessment of the nutritional status of the resident and treatment through diet therapy, counseling and/or use of specialized nutrition supplements.

(d) Menus must meet the needs of the residents.

1. Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the residents and must be prepared and served as prescribed.

2. Special diets shall be prepared and served as ordered.

3. Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the residents.

4. A current therapeutic diet manual approved by the dietitian and medical staff must be readily available to all medical, nursing, and food service personnel.

(e) Education programs, including orientation, on-the-job training, inservice education, and continuing education shall be offered to dietetic services personnel on a regular basis. Programs shall include instruction in the use of equipment, personal hygiene, proper inspection, and the handling, preparing and serving of food.

(f) A minimum of three (3) meals in each twenty-four (24) hour period shall be served. A supplemental night meal shall be served if more than fourteen (14) hours lapse

(Rule 1200-08-06-.06, continued)

between supper and breakfast. Additional nourishments shall be provided to patients with special dietary needs. A minimum of three (3) days supply of food shall be on hand.

(g) Menus shall be prepared at least one week in advance. A dietitian shall be consulted to help write and plan the menus. If any change in the actual food served is necessary, the change shall be made on the menu to designate the foods actually served to the residents. Menus of food served shall be kept on file for a thirty (30) day period.

(h) The dietitian or designee shall have a conference, dated on the medical chart, with each resident and/or family within two (2) weeks of admission to discuss the diet plan indicated by the physician. The resident's dietary preferences shall be recorded and utilized in planning his/her daily menu.

(i) Food shall be protected from dust, flies, rodents, unnecessary handling, droplet infection, overhead leakage and other sources of contamination whether in storage or while being prepared and served and/or transported through hallways.

(j) Perishable food shall not be allowed to stand at room temperature except during necessary periods of preparation or serving. Prepared foods shall be kept hot (140°F or above) or cold (45°F or less). Appropriate equipment for temperature maintenance, such as hot and cold serving units or insulated containers, shall be used.

(k) All nursing homes shall have commercial automatic dishwashers approved by the National Sanitation Foundation. Dishwashing machines shall be used according to manufacturer specifications.

(l) All dishes, glassware and utensils used in the preparation and serving of food and drink shall be cleaned and sanitized after each use.

(m) The cleaning and sanitizing of handwashed dishes shall be accomplished by using a three-compartment sink according to the current "U.S. Public Health Service Sanitation Manual".

(n) The kitchen shall contain sufficient refrigeration equipment and space for the storage of perishable foods.

(o) All refrigerators and freezers shall have thermometers. Refrigerators shall be kept at a temperature not to exceed 45°F. Freezers shall be kept at a temperature not to exceed 0°F.

(p) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the "U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments" and the current "U.S. Public Health Service Sanitation Manual" should be used as a guide to food sanitation.

(10) Social Work Services.

(a) Social services must be available to the resident, the resident's family and other persons significant to the resident, in order to facilitate adjustment of these individuals to the impact of illness and to promote maximum benefits from the health care services provided.

(Rule 1200-08-06-.06, continued)

(b) Social work services shall include psychosocial assessment, counseling, coordination of discharge planning, community liaison services, financial assistance and consultation.

(c) A resident's social history shall be obtained within two (2) weeks of admission and shall be appropriately maintained.

(d) Social work services shall be provided by a qualified social worker.

(e) Facilities for social work services shall be readily accessible and shall permit privacy for interviews and counseling.

(11) Physical, Occupational and Speech Therapy Services.

(a) Physical therapy, occupational therapy and speech therapy shall be provided directly or through contractual agreement by individuals who meet the qualifications specified by nursing home policy, consistent with state law.

(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

(c)~~(b)~~ A licensed physical therapist shall be in charge of the physical therapy service and a licensed occupational therapist shall be in charge of the occupational therapy service.

(d)~~(c)~~ Direct contact shall exist between the resident and the therapist for those residents that require treatment ordered by a physician.

(e)~~(d)~~ The physical therapist and occupational therapist, pursuant to a physician order, shall provide treatment and training designed to preserve and improve abilities for independent functions, such as: range of motion, strength, tolerance, coordination and activities of daily living.

(f)~~(e)~~ Therapy services shall be coordinated with the nursing service and made a part of the resident care plan.

(g)~~(f)~~ Sufficient staff shall be made available to provide the service offered.

(12) Ventilator Services. A nursing home that provides ventilator services shall meet or exceed the following minimum standards by:

(a) Ensuring a licensed respiratory care practitioner as defined by Tennessee Code Annotated Section 63-27-102(7), shall be physically present at the facility twenty four (24) hours per day, seven (7) days per week to provide:

1. ventilator care;

2. administration of medical gases;

3. administration of aerosol medications; and

4. diagnostic testing and monitoring of life support systems;

(Rule 1200-08-06-.06, continued)

(b) Ensuring that an appropriate, individualized plan of care is prepared for each patient requiring ventilator services. The plan of care shall be developed with input and participation from a pulmonologist or a physician with experience in ventilator care;

(c) Ensuring that admissions criteria is established to ensure the medical stability of ventilator-dependent patients prior to transfer from an acute care setting;

(d) Ensuring that Arterial Blood Gas (ABG) is readily available in order to document the patient's acid base status and/or End Tidal Carbon Dioxide (etCOs) and whether continuous pulse oximetry measurements should be performed in lieu of ABG studies;

(e) Ensuring that an audible, redundant external alarm system is located outside of each ventilator-dependent patient's room for the purpose of alerting caregivers of patient disconnection, ventilator disconnection or ventilator failure;

(f) Ensuring that the nursing home is equipped with emergency suction equipment and an adequate number of Ambu bags for manual ventilation;

(g) Ensuring that ventilator equipment is connected to electrical outlets connected to back-up generator power;

(h) Ensuring that ventilators are equipped with battery back-up systems;

(i) Ensuring that the nursing home is equipped to employ the use of current ventilator technology consistent with meeting patients' needs for mobility and comfort; and

(j) Ensuring that a back-up ventilator is available at all times.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-3-511, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed January 29, 1991; effective March 15, 1991. Amendment filed December 29, 1992; effective February 15, 1993. Amendment filed June 15, 1993; effective July 30, 1993. Amendment filed April 17, 1996; effective July 1, 1996. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed January 31, 2000; effective April 15, 2000. Amendment filed March 29, 2000; effective June 12, 2000. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed September 4, 2003; effective November 18, 2003. Amendment filed September 21, 2005; effective December 5, 2005. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed January 3, 2012; effective April 2, 2012. Amendment filed December 16, 2013; effective March 16, 2014.*

1200-08-06-.07 SPECIAL SERVICES: ALZHEIMER'S UNITS. Structurally distinct parts of a nursing home may be designated as special care units for ambulatory residents with dementia or Alzheimer's Disease and related disorders. Such units shall be designed to encourage self-sufficiency, independence and decision-making skills, and may admit residents only after the unit is found to be in compliance with licensure standards and upon final approval by the department. Units which hold themselves out to the public as providing specialized Alzheimer's services shall comply with the provisions of T.C.A. § 68-11-1404 and shall be in compliance with the following minimum standards:

(1) In order to be admitted to the special care unit:

(a) A diagnosis of dementia must be made by a physician. The specific etiology causing the dementia shall be identified to the best level of certainty prior to admission to the special care unit; and,

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

CHAPTER 1200-08-15
STANDARDS FOR RESIDENTIAL HOSPICES

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1200-08-15-.01 DEFINITIONS.

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

(2) Administrator. An individual appointed by a governing body who is responsible for the day to day management of the hospice program.

(3) Adult. An individual who has capacity and is at least 18 years of age.

(4) Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) Bereavement Counseling. Counseling services provided to the patient's or resident's family both prior to and after the patient's or resident's death.

(7) Bereavement Counselor. An individual who has at least a bachelor's degree in social work, counseling, psychology, pastoral care, or specialized training or experience in bereavement theory and counseling.

(8) Board. The Tennessee Board for Licensing Health Care Facilities.

(9) Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient or resident to make health care decisions while having the capacity to do so. A patient or resident shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient or resident shall have the burden of proving lack of capacity.

(10) Cardiopulmonary Resuscitation (CPR). The administering of any means or device to support cardiopulmonary functions in a patient or resident, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilations or respirations, defibrillation, the administration of drugs and/or

(Rule 1200-08-15-.01, continued)

chemical agents intended to restore cardiac and/or respiratory functions in a patient or resident where cardiac or respiratory arrest has occurred or is believed to be imminent.

(11) Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.

(12) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(13)~~(12)~~ Clinical Note. A written and dated notation containing a patient or_resident assessment, responses to medications, treatments and services, and/or any changes in condition signed by a health team member who made contact with the patient or resident.

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

(15)~~(14)~~ Competent. A patient or resident who has capacity.

(16)~~(15)~~ Core Services. Services consisting of nursing, medical social services, physician services and counseling services.

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

(18)~~(17)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(19)~~(18)~~ Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners. Persons exempt from licensure shall be registered with the American Diabetics Association pursuant to T.C.A. §63-25-204.

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

(21)~~(20)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(22)~~(21)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(23)~~(22)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(24)~~(23)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state, or federal regulations.

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

(26)~~(25)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(Rule 1200-08-15-.01, continued)

(27)~~(26)~~ Health Care Decision-maker. In the case of a patient or resident who lacks capacity, the patient's or resident's health care decision-maker is one of the following: the patient's or resident's health care agent as specified in an advance directive, the patient's or resident's court-appointed guardian or conservator with health care decision-making authority, the patient's or resident's surrogate as determined pursuant to Rule 1200-08-15-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(28)~~(27)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(29)~~(28)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(30)~~(29)~~ HIV Resident. An individual who is in need of domiciliary care and who has been diagnosed and certified in writing by a licensed physician as being HIV (human immunodeficiency virus) positive.

(31)~~(30)~~ Home Care Organization. As defined by T.C.A. § 68-11-201 "home care organization" provides home health services, home medical equipment services or hospice services to patients on an outpatient basis in either their regular or temporary place of residence.

(32)~~(31)~~ Home Health Aide/Hospice Aide. A person who has completed a total of seventy-five (75) hours of training which included sixteen (16) hours of clinical training prior to or during the first three (3) months of employment and who is qualified to provide basic services, including simple procedures as an extension of therapy services, personal care regarding nutritional needs, ambulation and exercise.

(33)~~(32)~~ Hospice Care Clinical Coordinator. A person identified as being responsible for the clinical management of all aspects of a hospice program. The hospice clinical coordinator must have at least one (1) year of supervisory experience in hospice or home health care and be either a licensed physician or a registered nurse.

(34)~~(33)~~ Hospice Patient. An individual who:

(a) Has been diagnosed as terminally ill;

(b) Has been certified in writing by a physician to have an anticipated life expectancy of six (6) months or less; and,

(c) Has voluntarily requested admission to, and been accepted by a licensed hospice.

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

(36)~~(35)~~ Incompetent. A patient or resident who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(37)~~(36)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

(Rule 1200-08-15-.01, continued)

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

(39)~~(38)~~ Involuntary Transfer. The movement of a patient or resident without the consent of the resident, the resident's legal guardian, next of kin or representative, with required notification to the appropriate agencies.

(40)~~(39)~~ Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(41)~~(40)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(42)~~(41)~~ Licensed Psychologist. A person currently licensed as such by the Tennessee Board of Examiners in Psychology.

(43)~~(42)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(44)~~(43)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(45)~~(44)~~ Medical Director. A licensed physician employed by the residential hospice to be responsible for medical care in the facility.

(46)~~(45)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's or resident's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(47)~~(46)~~ Medical Record. Medical histories, records, reports, clinical notes, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, and other written electronics, or graphic data prepared, kept, made or maintained in an agency that pertains to confinement or services rendered to patients and residents.

(48)~~(47)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or resident or other medical or surgical treatments to achieve the expressed goals of the informed patient or resident. In the case of the incompetent patient or resident, the patient's or resident's representative expresses the goals of the patient or resident.

(49)~~(48)~~ Medical Social Services. When provided, shall be given by a certified master social worker, a licensed clinical social worker, or by a social worker or social work assistant employed by the residential hospice and under the supervision of a certified master social worker or licensed clinical social worker, and in accordance with the plan of care. The medical social services provider shall assist the physician and other team members in understanding the significant social and emotional factors related to the health problems, participate in the development of the plan of care, prepare clinical and progress notes, work with the family, utilize appropriate community resources, participate in discharge planning and in-service programs, and act as a consultant to other organization personnel.

(Rule 1200-08-15-.01, continued)

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

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

(52)~~(51)~~ N.F.P.A. The National Fire Protection Association.

(53)~~(52)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(54)~~(53)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(55)~~(54)~~ Palliative. The reduction or abatement of pain or troubling symptoms by appropriate coordination of all elements of the hospice care team to achieve needed relief of distress.

(56)~~(55)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(57)~~(56)~~ Personally Informing. A communication by any effective means from the patient or resident directly to a health care provider.

(58)~~(57)~~ Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.

(59)~~(58)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(60)~~(59)~~ Physical Therapist Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(61)~~(60)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

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

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

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

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

(c)

(Rule 1200-08-15-.01, continued)

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

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

3. Specify both 1 and 2.

(64)~~(63)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(65)~~(64)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(66)~~(65)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's or resident's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(67)~~(66)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(68)~~(67)~~ Residential Hospice. A licensed homelike residential facility designed, staffed and organized to provide hospice and/or HIV care services, except such services shall be provided at such residential facility rather than the patient's or resident's regular or temporary place of residence. A residential hospice shall not provide hospice and/or HIV care services to any person other than a hospice and/or HIV resident.

(69)~~(68)~~ Respiratory Therapist. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(70)~~(69)~~ Respiratory Therapy Technician. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(71)~~(70)~~ Respite Care. A short-term period of inpatient care provided to a hospice patient only when necessary to relieve the family members or other persons caring for the patient.

(72)~~(71)~~ Secured Unit. A facility or distinct part of a facility where the residents are intentionally denied egress by any means.

(73)~~(72)~~ Shall or Must. Compliance is mandatory.

(74)~~(73)~~ Social Worker. An individual who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education and has one (1) year of social work experience in a health care setting.

(75)~~(74)~~ Social Work Assistant. A person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work, and has at least one (1) year of social work experience in a health care setting. Social work related fields include bachelor/masters degrees in psychology, sociology, human services (behavioral sciences, not human resources), masters degree in counseling fields (psychological guidance and guidance counseling) and degrees in gerontology.

(Rule 1200-08-15-.01, continued)

~~(75) Speech Language Pathologist. A person currently licensed as such by The Tennessee Board of Communication Disorders and Sciences.~~

(76) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

(77)~~(76)~~ Spiritual Counselor. A person who has met the requirements of a religious organization to serve the constituency of that organization.

(78)~~(77)~~ State.A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(79)~~(78)~~ Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board or equivalent body.

(80)~~(79)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(81)~~(80)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these regulations.

(82)~~(81)~~ Surrogate. An individual, other than a patient's or resident's agent or guardian, authorized to make a health care decision for the patient or resident.

(83)~~(82)~~ Terminally ill. An individual with a medical prognosis that his or her life expectancy is six (6) months or less if the illness runs its normal course.

(84)~~(83)~~ Transfer. The movement of a patient or resident at the direction of a physician or other qualified medical personnel when a physician is not readily available, but does not include such movement of a patient or resident who leaves the facility against medical advice.

(85)~~(84)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient or resident.

(86)~~(85)~~ Volunteer. An individual who agrees to provide services to a hospice care patient or HIV resident and/or family member(s), without monetary compensation, with appropriate supervision by the facility.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed November 22, 2005; effective February 5, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*

1200-08-15-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any residential hospice without having a license. A

(Rule 1200-08-15-.05, continued)

Authority**: T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 71-6-121.* ***Administrative History: *Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed April 20, 2006; effective July 4, 2006.*

1200-08-15-.06 BASIC HOSPICE FUNCTIONS.

(1) Core Functions. A residential hospice must ensure that substantially all core services are routinely provided directly by hospice employees. A residential hospice may use contracted staff if necessary to supplement residential hospice employees in order to meet the needs of patients and residents.

(a) Nursing services. The residential hospice must provide nursing care and services by, or under the supervision of, a registered nurse (R.N.) at all times.

1. Nursing services must be directed and staffed to assure the nursing needs of patients and residents are met.

2. Patient and resident care responsibilities of nursing personnel must be specified.

3. Hospice services and HIV care services must be provided in accordance with recognized standards of practice.

4. Nursing services include the authorization of a Registered Nurse to pronounce the death of a patient or resident.

(b) Medical Social Services. Medical Social Services must be provided by a qualified social worker under the direction of a physician.

(c) Physician Services. In addition to palliation and management of terminal illness and related conditions and HIV care, physician employees of the residential hospice including the physician member(s) of the interdisciplinary group, must also meet the general medical needs of the patients and residents to the extent these needs are not met by the attending physician.

(d) Counseling Services. Counseling services must be made available to both the individual and the family. Counseling includes bereavement counseling, provided both prior to and after the patient's or resident's death, as well as dietary, therapeutic, spiritual and may include any other counseling services identified in the plan of care for the individual and family provided while the individual is a patient or resident of the residential hospice.

1. Bereavement counseling. There must be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services should reflect family needs, services to be provided, and the frequency of services.

2. Dietary counseling. Dietary counseling, when required, must be provided by a qualified individual.

3. Spiritual counseling. Spiritual counseling must include notice to patients as to the availability of clergy.

4. Additional counseling. Counseling may be provided by other members of the interdisciplinary group as well as by other qualified professionals as determined by the residential hospice.

(Rule 1200-08-15-.06, continued)

(2) Plan of Care.

A written plan of care must be established and maintained for each individual admitted to a residential hospice, and the care provided to an individual must be in accordance with the plan.

(a) Establishment of plan. The plan must be established by the attending physician, the medical director or the physician's designee and the interdisciplinary group prior to providing care.

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

(c) Content of plan. The plan must include an assessment of the individual's needs and identification of the HIV care services or hospice services required including the management of discomfort and symptom relief. It must state in detail the scope and frequency of services needed to meet the patient's or resident's and family's needs.

(3) Interdisciplinary Group.

The organization providing hospice services must designate an interdisciplinary group and groups composed of individuals who provide or supervise the care and services offered by the residential hospice:

(a) Composition of Group. The residential hospice must have an interdisciplinary group or groups that include at least the following individuals who are employees of the residential hospice:

1. A doctor of medicine or osteopathy;

2. A registered nurse;

3. A social worker; and

4. A pastoral or other counselor.

(b) Role of Group. The interdisciplinary group is responsible for:

1. Participation in the establishment of the plan of care;

2. Provision or supervision of the quality of hospice care and services and/or HIV care services;

3. Periodic review and updating of the plan of care for each individual receiving hospice care or HIV care; and

4. Establishing and maintaining policies governing the day-to-day provision of hospice care and services and/or HIV care and services.

(c) If a residential hospice has more than one interdisciplinary group, it must designate in advance the group it chooses to execute the functions described in paragraph (b)(4) of this section.

(Rule 1200-08-15-.06, continued)

(d) Coordinator. The residential hospice must designate a registered nurse to coordinate the implementation of the plan of care of each patient and/or resident.

(e) Volunteers. The residential hospice may use volunteers, in defined roles, under the supervision of a designated residential hospice employee.

1. Training. The residential hospice must provide appropriate orientation and training that is consistent with acceptable standards of residential hospice practice.

2. Role. Volunteers may be used in administrative or direct patient or resident care roles.

3. Recruiting and retaining. The hospice must document active and ongoing efforts to recruit and train volunteers.

4. Availability of clergy. The residential hospice must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to patients or residents who request such visits and must advise patients and/or residents of this opportunity.

(4) Continuation of Care. A residential hospice must assist in coordinating continued care should the patient or resident be transferred or discharged from the residential hospice.

(5) Drug and Treatments. Drugs and treatments shall be administered by appropriately licensed facility personnel acting within the scope of their license. Oral orders for drugs and treatments shall be given to appropriately licensed personnel acting within the scope of their licenses, immediately recorded, signed and dated, and countersigned and dated by the physician.

(6) Performance Improvement Program. The residential hospice must ensure that there is an effective facility-wide performance improvement program to evaluate resident care and performance of the organization. The performance improvement program must be ongoing and have a written plan of implementation which assures that:

(a) All organized services related to resident care, including services furnished by a contractor, are evaluated;

(b) Nosocomial infections and medication therapy are evaluated;

(c) All services performed in the facility are evaluated as to the appropriateness of diagnosis and treatment;

(d) The residential hospice must have an ongoing plan, consistent with available community and facility resources, to provide or make available services that meet the medically-related needs of its patients and/or HIV care residents;

(e) The facility must develop and implement plans for improvement to address deficiencies identified by the performance improvement program and must document the outcome of the remedial action;

(f) Performance improvement program records are not disclosable except when such disclosure is required to demonstrate compliance with this section;

(g) Good faith attempts by the Performance Improvement Program Committee to identify and correct deficiencies will not be used as a basis for sanctions.

(Rule 1200-08-15-.06, continued)

(7) Infection Control.

(a) The residential hospice must provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. There must be an active program for the prevention, control, and investigation of infections and communicable diseases.

(b) The administrator shall assure that an infection control committee, including the medical director and members of the nursing staff and administrative staff, develops guidelines and techniques for the prevention, surveillance, control and reporting of facility infections. Duties of the committee shall include the establishment of:

1. Written infection control policies;

2. Techniques and systems for identifying, reporting, investigating and controlling infections in the facility;

3. Written procedures governing the use of aseptic techniques and procedures in the facility;

4. Written procedures concerning food handling, laundry practices, disposal of environmental and patient and/or resident wastes, traffic control and visiting rules, sources of air pollution, and routine culturing of autoclaves and sterilizers;

5. A log of incidents related to infectious and communicable diseases;

6. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing, proper grooming, masking and dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of patient and/or resident equipment and supplies; and,

7. Continuing education for all facility personnel on the cause, effect, transmission, prevention, and elimination of infections.

(c) The administrator, the medical director and a registered nurse must ensure that the facility-wide performance improvement program and training programs address problems identified by the infection control program and must be responsible for the implementation of successful corrective action plans in affected problem areas.

(d) The facility shall develop policies and procedures for testing a patient's or resident's blood for the presence of the hepatitis B virus and the HIV (AIDS) virus in the event that an employee of the facility, a student studying at the facility, or other health care provider rendering services at the facility is exposed to a patient's or resident's blood or other body fluid. The testing shall be performed at no charge to the patient or resident, and the test results shall be confidential.

(e) The facility and its employees shall adopt and utilize standard or universal precautions for preventing transmission of infections, HIV, and communicable diseases.

(f) Every residential hospice shall adopt appropriate policies regarding the testing of patients and staff for human immunodeficiency virus (HIV) and any other identified causative agent of acquired immune deficiency syndrome.

(g) Precautions shall be taken to prevent the contamination of sterile supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents. Decontamination and preparation areas shall be separated.

(Rule 1200-08-15-.06, continued)

(h) Space and facilities for housekeeping equipment and supply storage shall be provided in each service area. Storage for bulk supplies and equipment shall be located away from patient and resident care areas. The building shall be kept in good repair, clean, sanitary and safe at all times.

(i) The facility shall appoint a housekeeping supervisor who shall be responsible for:

1. Organizing and coordinating the facility's housekeeping service;

2. Acquiring and storing sufficient housekeeping supplies and equipment for facility maintenance; and,

3. Assuring the clean and sanitary condition of the facility to provide a safe hygienic environment for patients and/or residents and staff. Cleaning shall be accomplished in accordance with the infection control rules and regulations herein and facility policy.

(j) Laundry facilities located in the residential hospice shall:

1. Be equipped with an area for receiving, processing, storing and distributing clean linen;

2. Be located in an area that does not require transportation for storage of soiled or contaminated linen through food preparation, storage or dining areas;

3. Provide space for storage of clean linen and for bulk storage within clean areas of the facility; and,

4. Provide carts, bags or other acceptable containers appropriately marked to identify those used for soiled linen and those used for clean linen to prevent dual utilization of the equipment and cross contamination.

(k) The facility shall name an individual who is responsible for laundry service. This individual shall be responsible for:

1. Establishing a laundry service, either within the residential hospice or by contract, that provides the facility with sufficient clean, sanitary linen at all times;

2. Knowing and enforcing infection control rules and regulations for the laundry service;

3. Assuring the collection, packaging, transportation and storage of soiled, contaminated, and clean linen is in accordance with all applicable infection control rules, regulations and procedures; and,

4. Assuring that a contract laundry service complies with all applicable infection control rules, regulations and procedures.

(8) Hospice Aide Services. Aide Services must be available and adequate in frequency to meet the needs of the patients.

(a) The hospice aide shall be assigned to a particular patient or resident by a registered nurse. Written instructions for patient or resident care shall be prepared by a registered nurse or therapist as appropriate. Duties may include the performance of simple procedures as an extension of therapy services, personal care, ambulation and

(Rule 1200-08-15-.06, continued)

exercises, reporting changes in the patient's or resident's condition and needs, and completing appropriate records.

(b) The registered nurse, or appropriate professional staff member, shall monitor and assess the hospice aide's competence in providing care, relationships and determine whether goals are being met.

(c) There shall be regularly scheduled continuing in-service programs which include on-the-job training as issues are identified.

~~(9) Physical therapy, occupational therapy, respiratory therapy and speech language pathology. Physical therapy services, occupational therapy services, respiratory therapy services and speech language pathology services must be available, and when provided, offered in a manner consistent with accepted standards of practice.~~

(9) Physical therapy, occupational therapy, respiratory therapy and speech language pathology.

(a) Physical therapy services, occupational therapy services, respiratory therapy services and speech language pathology services must be available, and when provided, offered in a manner consistent with accepted standards of practice.

(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

(10) Medical supplies. Medical supplies and appliances including drugs and biologicals, must be provided as needed for the palliation and management of the terminal illness or conditions directly attributable to the terminal diagnosis.

(a) Administration. All drugs and biologicals must be administered in accordance with accepted standards of practice, only by appropriately licensed employees of the hospice.

(b) The residential hospice must have a policy for the disposal of controlled drugs when those drugs are no longer needed by the patient.

(c) Drugs and biologicals may be administered by the patient or resident or his/her family member if the patient's or resident's attending physician has approved.

(11) Medical Records.

(a) A medical record containing past and current findings in accordance with accepted professional standards shall be maintained for every residential hospice patient and/or HIV care resident. The record must be complete, promptly and accurately documented, readily accessible and systematically organized to facilitate retrieval. Each clinical record is a comprehensive compilation of information. Entries are made for all services provided. Entries are made and signed by the person providing the services. The record includes all services whether furnished directly or under arrangements made by the hospice. Each individual's record must contain:

1. The initial and subsequent assessments;

2. The plan of care;

3. Identification data;

(Rule 1200-08-15-.06, continued)

4. Consent and authorization and election forms;

5. Pertinent medical history; and

6. Complete documentation of all services and events, including but not limited to evaluations, treatments and progress notes.

(b) All medical records, either written, electronic, graphic or otherwise acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least (10) years after which such records may be destroyed. However, in cases of patients or residents under mental disability or minority, their complete residential hospice records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the patient or resident, whichever is longer. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of the contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the residential hospice's policies and procedures, and no record may be destroyed on an individual basis.

(c) Even if the residential hospice discontinues operations, records shall be maintained as mandated by these rules and the Tennessee Medical Records Act (see T.C.A. §§ 68-11-308). If a patient or resident is transferred to another health care facility or agency, a copy of the record or an abstract shall accompany the patient or resident when the residential hospice is directly involved in the transfer.

(d) The residential hospice must have a procedure for ensuring the confidentiality of patient and resident records. Information from, or copies of, records may be released only to authorized individuals, and the facility must ensure that unauthorized individuals cannot gain access to, or alter, patient or resident records. Original medical records must be released by the facility only in accordance with federal and state laws.

(e) For purposes of this rule, the requirements for signature or countersignature by a physician or other person responsible for signing, countersigning and entry may be satisfied by the electronic entry by such person of a unique code assigned exclusively to him or her, or by entry of other unique electronic or mechanical symbols, provided that such person has adopted same as his or her signature in accordance with established protocol or rules.

(f) All entries must be legible, complete, dated and authenticated according to facility policy.

(12) Pharmaceutical Services.

(a) The residential hospice shall have pharmaceutical services that meet the needs of the residents and are in accordance with the Tennessee Board of Pharmacy statutes and regulations. The facility is responsible for developing policies and procedures that minimize drug errors.

(b) Test reagents, germicides, and disinfectants shall be stored separately from drugs, devices and related materials. External drugs and related materials must be stored separately from internal drugs, devices and related materials. All drugs, devices and related materials must be properly labeled. They shall be properly stored in medicine compartments, including cabinets on wheels, or drug rooms. Such cabinets or drug rooms shall be kept securely locked when not in use and the key must be in the possession of the supervising nurse or other authorized persons.

(Rule 1200-08-15-.06, continued)

(c) Schedule II drugs must be stored behind two (2) separately locked doors at all times and accessible only to persons in charge of administering medication.

(d) Every residential hospice shall comply with all state and federal regulations governing Schedule II drugs.

(e) A notation shall be made in a Schedule II drug book and in the patient's or resident's nursing notes each time a Schedule II drug is given. The notation shall include the name of the patient or resident receiving the drug, name of the drug, the dosage given, the method of administration, the date and time given and the name of the physician prescribing the drug.

(f) All oral orders shall be immediately recorded, designated as such and signed by the person receiving them and countersigned by the physician within ten (10) days.

(g) All orders for drugs, devices and related materials must be in writing and signed by the practitioner or practitioners responsible for the care of the patient or resident. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they shall be:

1. Accepted only by personnel that are authorized to do so by the medical staff policies and procedures, consistent with federal and state law; and,

2. Signed or initialed by the prescribing practitioner according to residential hospice policy.

(h) Medications not specifically limited as to time or number of doses when ordered are controlled by automatic stop orders or other methods in accordance with written policies. No Schedule II drug shall be given or continued beyond seventy-two (72) hours without a written order by the physician.

(i) Medication administration records (MAR) shall be checked against the physician's orders. Each dose shall be properly recorded in the clinical record after it has been administered.

(j) Preparation of doses for more than one scheduled administration time shall not be permitted.

(k) Medication shall be administered only by licensed medical or licensed nursing personnel or other licensed health professionals acting within the scope of their license.

(l) Unless the unit dose package system is used, individual prescriptions of drugs shall be kept in the original container with the original label intact showing the name of the patient or resident, the drug, the physician, the prescription number and the date dispensed.

(m) Legend drugs shall be dispensed by a licensed pharmacist.

(n) Any unused portions of prescriptions shall be turned over to the patient or resident only on a written order by the physician. A notation of drugs released to the patient or resident shall be entered into the medical record. All unused prescriptions left in a residential hospice shall be destroyed on the premises and recorded by a pharmacist. Such record shall be kept in the residential hospice.

(13) Laboratory Services.

(Rule 1200-08-15-.06, continued)

The residential hospice must maintain or have available, either directly or through a contractual agreement, adequate laboratory services to meet the needs of the patients and/or residents. The residential hospice must ensure that all laboratory services provided to its patients and/or residents are performed in a facility licensed in accordance with the Tennessee Medical Laboratory Act (TMLA). All technical laboratory staff shall be licensed in accordance with the TMLA and shall be qualified by education, training and experience for the type of services rendered.

(14) Food and Dietetic Services.

(a) The residential hospice must designate a person, either directly or by contractual agreement, to serve as the food and dietetic services director with responsibility for the daily management of the dietary services.

(b) There must be a qualified dietitian, full time, part-time, or on a consultant basis who is responsible for the development and implementation of a nutrition care process to meet the needs of patients and/or residents for health maintenance, disease prevention and, when necessary, medical nutrition therapy to treat an illness, injury or condition.

(c) Menus must meet the needs of the patients and/or residents.

1. Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the patients and/or residents and must be prepared and served as prescribed.

2. Special diets shall be prepared and served as ordered.

3. Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the patients and/or residents.

4. A current therapeutic diet manual approved by the dietitian and medical director must be readily available to all medical, nursing, and food service personnel.

(d) Education programs, including orientation, on-the-job training, inservice education, and continuing education shall be offered to dietetic services personnel on a regular basis. Programs shall include instruction in the use of equipment, personal hygiene, proper inspection, and the handling, preparing and serving of food.

(e) A minimum of three (3) meals in each twenty-four (24) hour period shall be offered. A supplemental night meal shall be offered if more than fourteen (14) hours lapse between supper and breakfast. Additional nourishments shall be provided to patients and/ or residents with special dietary needs. A minimum of three (3) days supply of food shall be on hand.

(f) Food shall be protected from dust, flies, rodents, unnecessary handling, droplet infection, overhead leakage and other sources of contamination whether in storage, while being prepared and served, and/or transported through hallways.

(g) Perishable food shall not be allowed to stand at room temperature except during necessary periods of preparation or serving. Prepared foods shall be kept hot (140°F or above) or cold (45°F or less). Appropriate equipment for temperature maintenance, such as hot and cold serving units or insulated containers, shall be used.

(h) Dishwashing machines shall be used according to manufacturer specifications.

(Rule 1200-08-15-.06, continued)

(i) All dishes, glassware and utensils used in the preparation and serving of food and drink shall be cleaned and sanitized after each use.

(j) The cleaning and sanitizing of handwashed dishes shall be accomplished by using a three-compartment sink according to the current "U.S. Public Health Service Sanitation Manual".

(k) The kitchen shall contain sufficient refrigeration equipment and space for the storage of perishable foods.

(l) All refrigerators and freezers shall have thermometers. Refrigerators shall be kept at a temperature not to exceed 45°F. Freezers shall be kept at a temperature not to exceed 0°F.

(m) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the "U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments" and the current "U.S. Public Health Service Sanitation Manual" should be used as a guide to food sanitation.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed November 22, 2005; effective February 5, 2006. Amendment filed March 27, 2015; effective June 25, 2015.*

1200-08-15-.07 RESERVED.

1200-08-15-.08 BUILDING STANDARDS.

(1) A residential hospice shall construct, arrange, and maintain the condition of the physical plant and the overall residential hospice environment in such a manner that the safety and well-being of the patients are assured.

(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; the 2005 edition of the National Electrical Code; and the 2005 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.

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

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

CHAPTER 1200-08-26
STANDARDS FOR HOMECARE ORGANIZATIONS
PROVIDING HOME HEALTH SERVICES

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1200-08-26-.01 DEFINITIONS.

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

(2) Administrator. A person who:

(a) Is a licensed physician with at least one (1) year supervisory or administrative experience in home health care, hospice care or related health programs; or

(b) Is a registered nurse with at least one (1) year supervisory or administrative experience in home health care, hospice care or related health programs; or

(c) Has training and experience in health service administration and at least one (1) year of supervisory or administrative experience in home health care, hospice care or related health programs.

(3) Adult. An individual who has capacity and is at least 18 years of age.

(4) Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) Agency. A Home Care Organization providing home health services.

(6) Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(7) Board. The Tennessee Board for Licensing Health Care Facilities.

(8) Branch Office. A location or site from which a home care organization provides home health services within a portion of the total geographic area served by the licensed organization. The branch office is part of the home care organization providing home health services and is located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch independently to meet the requirements for licensing as a home care organization providing home health services. At all times a branch office must operate solely under the name of the licensed organization.

(Rule 1200-08-26-.01, continued)

(9) Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient to make health care decisions while having the capacity to do so. A patient shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient shall have the burden of proving lack of capacity.

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

(11) Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.

(12) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(13)~~(12)~~ Clinical Note. A written and dated notation containing a patient assessment, responses to medications, treatments, services, any changes in condition and signed by a health team member who made contact with the patient.

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

(15)~~(14)~~ Competent. A patient who has capacity.

(16)~~(15)~~ Department. The Tennessee Department of Health.

(17)~~(16)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

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

(19)~~(18)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(20)~~(19)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(21)~~(20)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(22)~~(21)~~ Hazardous Waste. Materials whose handling, use, storage and disposal are governed by local, state or federal regulations.

(Rule 1200-08-26-.01, continued)

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

(24)~~(23)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(25)~~(24)~~ Health Care Decision-maker. In the case of a patient who lacks capacity, the patient's health care decision-maker is one of the following: the patient's health care agent as specified in an advance directive, the patient's court-appointed guardian or conservator with health care decision-making authority, the patient's surrogate as determined pursuant to Rule 1200-08-26-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(26)~~(25)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(27)~~(26)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(28)~~(27)~~ Home Care Organization. As defined by T.C.A. § 68-11-201, a "home care organization" provides home health services, home medical equipment services or hospice services to patients on an outpatient basis in either their regular or temporary place of residence.

(29)~~(28)~~ Home Health Aide. A person who has completed a total of seventy-five (75) hours of training which included sixteen (16) hours of clinical training prior to or during the first three (3) months of employment and who is qualified to provide basic services, including simple procedures as extension of therapy services, personal care regarding nutritional needs, ambulation and exercise, and household services essential to health care at home.

(30)~~(29)~~ Home Health Service. As defined by T.C.A. § 68-11-201, "home health service" means a service provided an outpatient by an appropriately licensed health care professional or an appropriately qualified staff member of a licensed home care organization in accordance with orders recorded by a physician, and which includes one (1) or more of the following:

(a) Skilled nursing care including part-time or intermittent supervision;

(b) Physical, occupational or speech therapy;

(c) Medical social services;

(d) Home health aide services;

(e) Medical supplies and medical appliances, other than drugs and pharmaceuticals, when provided or administered as part of or through the provision of, the services described in subparagraph (a) through (d) ; and

(f) Any of the foregoing items and services which are provided on an outpatient basis under arrangements made by the home care organization at a hospital, nursing home facility or rehabilitation center and the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in the individual's home, or which are furnished at such facility while the

(Rule 1200-08-26-.01, continued)

individual is there to receive any such item or service, but not including transportation of the individual in connection with any such item or service.

(g) Home health service does not include services provided in the home by a sole practice therapist, when such services are within the scope of the therapist's license and incidental to services provided by the sole practice therapist in the office. A sole practice therapist means a therapist licensed under Title 63, Chapter 13 or 17, who is in sole practice and not in a business arrangement with any other therapist or other healthcare provider. Sole practice therapists are not excluded from the requirements of professional support services.

(31)~~(30)~~ Homemaker Service. A non-skilled service in the home to maintain independent living which does not require a physician's order. An agency does not have to be licensed as a home care organization to provide such services.

(32)~~(31)~~ Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(33)~~(32)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(35)~~(34)~~ Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(36)~~(35)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(37)~~(36)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(38)~~(37)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(39)~~(38)~~ Medical Record. Medical histories, records, reports, clinical notes, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries and other written electronic or graphic data prepared, kept, made or maintained in an agency that pertains to confinement or services rendered to patients.

(40)~~(39)~~ Medical Social Services. When provided, shall be given by a certified master social worker, a licensed clinical social worker, or by a social worker or social work assistant employed by the home care organization and under the supervision of a certified master social worker or licensed clinical social worker, in accordance with the plan of care. The medical social services provider shall assist the physician and other team members in understanding the significant social and emotional factors related to the health problems, participate in the development of the plan of care, prepare clinical and progress notes, work with the family, utilize appropriate community resources, participate in discharge planning and in-service programs, and act as a consultant to other organized personnel.

(41)~~(40)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or other medical or surgical

(Rule 1200-08-26-.01, continued)

treatments to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the patient's representative expresses the goals of the patient.

(42)~~(41)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(43)~~(42)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

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

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

(46)~~(45)~~ Patient. Includes but is not limited to any person who is suffering from an acute or chronic illness or injury or who is crippled, convalescent or infirm, or who is in need of obstetrical, surgical, medical, nursing or supervisory care.

(47)~~(46)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(48)~~(47)~~ Personally Informing. A communication by any effective means from the patient directly to a health care provider.

(49)~~(48)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(50)~~(49)~~ Physical Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(51)~~(50)~~ Physician. A person currently licensed as such by the Tennessee Board of Medical Examinations or currently licensed by the Tennessee Board of Osteopathic Examination. For the purposes of defining "home health services" only, "physician" includes a podiatrist licensed under Title 63, Chapter 3, provided, that any home health service ordered is a follow-up to treatment provided to the patient by the podiatrist. A physician who is licensed to practice medicine, osteopathy or podiatry in a state contiguous to Tennessee may refer a patient residing in this state to a home care organization providing home health services duly licensed under this chapter; however, this shall not be construed as authorizing an unlicensed physician to practice medicine in violation of T.C.A. §§63-6-201, 63-9-104 or 63-3-204, and such a physician shall have previously provided treatment to that patient, and shall have had an ongoing physician-patient relationship with the person for whom the referral is to be made.

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

(Rule 1200-08-26-.01, continued)

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

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

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

(c)

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

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

3. Specify both 1 and 2.

(54)~~(53)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(55)~~(54)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(56)~~(55)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(57)~~(56)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(58)~~(57)~~ Respiratory Technician. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(59)~~(58)~~ Respiratory Therapist. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(60)~~(59)~~ Shall or Must. Compliance is mandatory.

(61)~~(60)~~ Social Work Assistant. A person who has a baccalaureate degree in social work, psychology, sociology or other field related to social work, and has at least one (1) year of social work experience in a health care setting. Social work related fields include bachelor/masters degrees in psychology, sociology, human services (behavioral sciences, not human resources), masters degree in counseling fields (psychological guidance and guidance counseling) and degrees in gerontology.

~~(61) Speech Therapist. A person currently licensed as such by The Tennessee Board of Communication Disorders and Sciences.~~

(62) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

(Rule 1200-08-26-.01, continued)

(63)~~(62)~~ State.A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(64)~~(63)~~ Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board or equivalent body.

(65)~~(64)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(66)~~(65)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these rules.

(67)~~(66)~~ Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(68)~~(67)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendment filed May 27, 2004; effective August 10, 2004. Amendments filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*

1200-08-26-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any home care organization providing home health services without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic areas specified by the certificate of need or at the time of the original licensing. The name of the home care organization providing home health services shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the home care organization providing home health services.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the Department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the Department.

(Rule 1200-08-26-.05, continued)

(4) Every person admitted for care or treatment to any agency covered by these rules shall be under the supervision of a physician, as defined in this chapter, who holds a license in good standing. The name of the patient's attending physician shall be recorded in the patient's medical record.

(5) The agency staff shall obtain the patient's written consent for home health services.

(6) The signed consent form shall be included with the patient's individual clinical record.

(7) A diagnosis must be entered in the admission records of the agency for every person admitted for care or treatment.

(8) No medication or treatment shall be provided to any patient of an agency except on the order of a physician or dentist lawfully authorized to give such an order.

(9) A medical record shall be developed and maintained for each patient admitted.

(10) A discharge plan and summary shall be completed on each patient.

(11) The agency must provide an effective discharge planning process that applies to all patients. The agency's discharge planning process, including discharge policies and procedures, must be in writing and must:

(a) Be developed and/or supervised by a registered nurse, social worker or other appropriately qualified personnel;

(b) Begin upon admission of any patient;

(c) Include the likelihood of a patient's capacity for self-care;

(d) Identify the patient's continuing physical, emotional, housekeeping, transportation, social and other needs;

(e) Involve the patient, the patient's family or individual acting on the patient's behalf, the physician, nursing and social work professionals and other appropriate staff, and must be documented in the patient's medical record; and

(f) Be conducted on an ongoing basis throughout the continuum of care. Coordination of services may involve promoting communication to facilitate family support, social work, nursing care, consultation, referral or other follow-up.

(12) The patient and family members or interested persons must be taught and/or counseled to prepare them for post-agency care.

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

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000.*

1200-08-26-.06 BASIC AGENCY FUNCTIONS.

(Rule 1200-08-26-.06, continued)

(1) An agency shall provide at least one of the qualifying home health services directly through agency employees, but may arrange with another licensed organization or health care professional to provide any additional home health services. Home health services provided under arrangements with another licensed home care organization or professional organization shall be subject to a written contract conforming with the requirements of this chapter.

(2) All personnel providing home health services shall assure that their efforts effectively complement one another and support the objectives outlined in the plan of care. The medical record or minutes of case conferences shall establish that effective interchange, reporting, and coordinated patient evaluation does occur. A written summary report for each patient shall be sent to the attending physician at least every sixty-two (62) days.

(3) Plan of Care.

(a) The written plan of care, developed in consultation with the organization staff, shall cover all pertinent diagnoses, including mental status, types of services and equipment required, frequency of services, prognosis, rehabilitation potential, functional limitations, activities permitted, nutritional requirements, medications and treatments, any safety measures to protect against injury, instructions for timely discharge or referral, and any other appropriate items. If a physician refers a patient under a plan of care which cannot be completed until after an evaluation visit, the physician shall be consulted to approve additions or modifications to the original plan. Orders for home health therapy services shall include the specific treatment or modalities to be used and their amount, frequency and duration. The therapist and other organization personnel shall participate in developing the plan of care.

(b) The total plan of care shall be reviewed by the attending physician and agency personnel involved in the patient's care as often as the severity of the patient's condition requires, but at least once every sixty-two (62) days. Evidence of review by the physician must include the physician's signature and date of the review on the plan of care. A facsimile of the physician's signature is acceptable. Professional staff shall promptly alert the physician to any changes that suggest a need to alter the plan of care.

(4) Drugs and treatments shall be administered by appropriately licensed agency personnel, acting within the scope of their licenses. Oral orders for drugs and treatments shall be given to appropriately licensed personnel acting within the scope of their licenses, immediately recorded, signed and dated, and countersigned and dated by the physician.

(5) Skilled Nursing Services.

(a) The agency shall provide skilled nursing services by or under the supervision of a registered nurse who has no current disciplinary action against his/her license, in accordance with the plan of care. This person shall be available at all times during operating hours and participate in all activities relevant to the professional home health services provided, including the development of qualifications and assignment of personnel.

(b) The registered nurse's duties shall include but are not limited to the following: make the initial evaluation visit, except in those circumstances where the physician has ordered therapy services as the only skilled service; regularly evaluate the patient's nursing needs; initiate the plan of care and necessary revisions; provide those services requiring substantial specialized nursing skill; initiate appropriate preventive and rehabilitative nursing procedures; prepare clinical and progress notes; coordinate

(Rule 1200-08-26-.06, continued)

services; inform the physician and other personnel of changes in the patient's condition and needs; counsel the patient and family in meeting nursing and related needs; participate in in-service programs; supervise and teach other nursing personnel. The registered nurse or appropriate agency staff shall initially and periodically evaluate drug interactions, duplicative drug therapy and non-compliance to drug therapy.

(c) The licensed practical nurse shall provide services in accordance with agency policies, which may include but are not limited to the following: prepare clinical and progress notes; assist the physician and/or registered nurse in performing specialized procedures; prepare equipment and materials for treatments; observe aseptic technique as required; and assist the patient in learning appropriate self-care techniques.

(d) A registered nurse may make the actual determination and pronouncement of death under the following circumstances:

1. The deceased was receiving the services of a licensed home care organization;

2. The death was anticipated, and the attending physician has agreed in writing to sign the death certificate. Such agreement by the attending physician must be present with the deceased at the place of death;

3. The nurse is licensed by the state; and

4. The nurse is employed by the home care organization providing services to the deceased.

(6) Therapy Services.

(a) All therapy services offered by the agency directly or under arrangement shall be planned, delegated, supervised or provided by a qualified therapist in accordance with the plan of care. A qualified therapist assistant may provide therapy services under the supervision of a qualified therapist in accordance with the plan of care. The therapist shall assist the physician in evaluating the level of function, helping develop the plan of care (revising as necessary), preparing clinical and progress notes, advising and consulting with the family and other agency personnel, and participating in in-service programs.

~~(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist or audiologist in good standing.~~

(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

(c) A qualified therapist may make the initial evaluation visit when therapy is the only skilled service ordered.

(7) Home Health Aide Services.

(a) Aides shall be selected on the basis of such factors as: a sympathetic attitude toward the care of the sick; the ability to read, write and carry out directions; and the maturity and ability to deal effectively with the demands of the job. Aides shall be formally and carefully trained in: methods of assisting patients to achieve maximum self-reliance in

(Rule 1200-08-26-.06, continued)

nutrition and meal preparation; the aging process and emotional problems of illness; procedures for maintaining a clean, healthy and pleasant environment; changes in a patient's condition that should be reported; work of the agency and the health team; ethics; confidentiality; respect for human dignity and the awareness of individual differences; and record keeping. Any home health aide training programs must comply with the federal home health aide training and competency regulations. Copies of these regulations may be obtained from the department.

(b) The home health aide shall be assigned to a particular patient by a registered nurse. Written instructions for patient care shall be prepared by a registered nurse or therapist as appropriate. Duties may include the performance of simple procedures as an extension of therapy services, personal care, ambulation and exercises, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.

(c) The registered nurse, or appropriate professional staff member if other home health services are provided, shall make a supervisory visit to the patient's residence at least monthly, either when the aide is present to observe and assist or when the aide is absent (preferably alternating visits), to assess the aide's competence in providing care and determine whether goals are being met.

(d) There shall be continuing in-service programs on a regularly scheduled basis with on-the-job training during supervisor visits and more often as needed.

(8) Medical Social Services, when provided, shall be given by a certified master social worker, a licensed clinical social worker, or by a social work assistant employed by the agency and under the supervision of a certified master social worker or licensed clinical social worker, and in accordance with the plan of care. The medical social services provider shall assist the physician and other team members in understanding the significant social and emotional factors related to the health problems, participate in the development of the plan of care, prepare clinical and progress notes, work with the family, utilize appropriate community resources, participate in discharge planning and in-service programs, and act as a consultant to other agency personnel.

(9) Performance Improvement.

(a) An agency shall have a committee to review, at least annually, past and present home health services including contract services, in accordance with a written plan, to determine their appropriateness and effectiveness and to ascertain that professional policies are followed in providing these services.

(b) The objectives of the review committee shall be:

1. To assist the agency in using its personnel and facilities to meet individual and community needs;

2. To identify and correct deficiencies which undermine quality of care and lead to waste of agency and personnel resources;

3. To help the agency make critical judgments regarding the quality and quantity of its services through self-examination;

(Rule 1200-08-26-.06, continued)

4. To provide opportunities to evaluate the effectiveness of agency policies and when necessary make recommendations to the administration as to controls or changes needed to assure high standards of patient care;

5. To augment in-service staff education;

6. To provide data needed to satisfy state licensure and certification requirements;

7. To establish criteria to measure the effectiveness and efficiency of the home health services provided to patients; and

8. To develop a record review system for the agency to evaluate the necessity or appropriateness of the home health services provided and their effectiveness and efficiency.

(10) Infection Control.

(a) There must be an active performance improvement program for developing guidelines, policies, procedures and techniques for the prevention, control and investigation of infections and communicable diseases.

(b) Formal provisions must be developed to educate and orient all appropriate personnel and/or family members in the practice of aseptic techniques such as handwashing and scrubbing practices, proper hygiene, use of personal protective equipment, dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of patient care equipment and supplies.

(c) Continuing education shall be provided for all agency patient care providers on the cause, effect, transmission, prevention and elimination of infections, as evidenced by the ability to verbalize/or demonstrate an understanding of basic techniques.

(d) The agency shall develop policies and procedures for testing a patient's blood for the presence of the hepatitis B virus and the HIV (AIDS) virus in the event that an employee of the agency, a student studying at the agency or other health care provider rendering services at the agency is exposed to a patient's blood or other body fluid. The testing shall be performed at no charge to the patient, and the test results shall be confidential.

(e) The agency and its employees shall adopt and utilize standard precautions (per CDC) for preventing transmission of infections, HIV and communicable diseases.

(f) Precautions shall be taken to prevent the contamination of sterile and clean supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents.

(11) Medical Records.

(a) A medical record containing past and current findings in accordance with accepted professional standards shall be maintained for every patient receiving home health services. In addition to the plan of care, the record shall contain: appropriate identifying information; name of physician; all medications and treatments; signed and dated clinical notes. Clinical notes shall be written the day on which service is rendered and incorporated no less often than weekly; copies of summary reports shall be sent to the physician; and a discharge summary shall be dated and signed within 7 days of discharge.

(Rule 1200-08-26-.06, continued)

(b) A home care organization providing home health services is authorized to receive and appropriately act on a written order for a plan of care for a patient concerning a home health service signed by a physician that is transmitted to the agency by electronically signed electronic mail. Such order that is transmitted by electronic mail shall be deemed to meet any requirement for written documentation imposed by this regulation.

(c) All medical records, either written, electronic, graphic or otherwise acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least ten (10) years after which such records may be destroyed. However, in cases of patients under mental disability or minority, their complete agency records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the patient, whichever is longer. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of the contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the agency's policies and procedures, and no record may be destroyed on an individual basis.

(d) Even if the agency discontinues operations, records shall be maintained as mandated by this chapter and the Tennessee Medical Records Act (T.C.A. §§ 68-11-308). If a patient is transferred to another health care facility or agency, a copy of the record or an abstract shall accompany the patient when the agency is directly involved in the transfer.

(e) Medical records information shall be safeguarded against loss or unauthorized use. Written procedures govern use and removal of records and conditions for release of information. The patient's written consent shall be required for release of information when the release is not otherwise authorized by law.

(f) For purposes of this rule, the requirements for signature or countersignature by a physician or other person responsible for signing, countersigning or authenticating an entry may be satisfied by the electronic entry by such person of a unique code assigned exclusively to him or her, or by entry of other unique electronic or mechanical symbols, provided that such person has adopted same as his or her signature in accordance with established protocol or rules.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-3-511, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-260 and 68-11-304.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed February 23, 2007; effective May 9, 2007.*

1200-08-26-.07 RESERVED.

1200-08-26-.08 RESERVED.

1200-08-26-.09 RESERVED.

1200-08-26-.10 INFECTIOUS AND HAZARDOUS WASTE.

(1) Each agency must develop, maintain and implement written policies and procedures for the definition and handling of its infectious and hazardous waste. These policies and procedures must comply with the standards of this rule and all other applicable state and federal regulations.

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

CHAPTER 1200-08-27
STANDARDS FOR HOMECARE ORGANIZATIONS
PROVIDING HOSPICE SERVICES

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1200-08-27-.01 DEFINITIONS.

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

(2) Administrator. A person who:

(a) Is a licensed physician with at least one (1) year supervisory or administrative experience in home health care, hospice care or related health programs; or

(b) Is a registered nurse with at least one (1) year supervisory or administrative experience in home health care, hospice care or related health programs; or

(c) Has training and experience in health service administration and at least one (1) year of supervisory or administrative experience in home health care, hospice care or related health programs.

(3) Adult. An individual who has capacity and is at least 18 years of age.

(4) Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) Agency. A Home Care Organization providing hospice services.

(7) Bereavement Counselor. An individual who has at least a bachelor's degree in social work, counseling, psychology, pastoral care or specialized training or experience in bereavement theory and counseling.

(8) Board. The Tennessee Board for Licensing Health Care Facilities.

(9) Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a patient to make health care decisions while having the

(Rule 1200-08-27-.01, continued)

capacity to do so. A patient shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a patient shall have the burden of proving lack of capacity.

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

(11) Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.

(12) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(13)~~(12)~~ Clinical Note. A written and dated notation containing a patient assessment, responses to medications, treatments, services, any changes in condition and signed by a health team member who made contact with the patient.

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

(15)~~(14)~~ Competent. A patient who has capacity.

(16)~~(15)~~ Core Services. Services consisting of nursing, medical social services, physician services and counseling services.

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

(18)~~(17)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

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

(20)~~(19)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(21)~~(20)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(22)~~(21)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(23)~~(22)~~ Hazardous Waste. Materials whose handling, use, storage and disposal are governed by local, state or federal regulations.

(Rule 1200-08-27-.01, continued)

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

(25)~~(24)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(26)~~(25)~~ Health Care Decision-maker. In the case of a patient who lacks capacity, the patient's health care decision-maker is one of the following: the patient's health care agent as specified in an advance directive, the patient's court-appointed guardian or conservator with health care decision-making authority, the patient's surrogate as determined pursuant to Rule 1200-08-27-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(27)~~(26)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(28)~~(27)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(29)~~(28)~~ Home Care Organization. As defined by T.C.A. § 68-11-201, a "home care organization" provides home health services, home medical equipment services or hospice services to patients on an outpatient basis in either their regular or temporary place of residence.

(30)~~(29)~~ Home Health Aide/Hospice Aide. A person who has completed a total of seventy-five (75) hours of training which included sixteen (16) hours of clinical training prior to or during the first three (3) months of employment and who is qualified to provide basic services, including simple procedures as an extension of therapy services, personal care regarding nutritional needs, ambulation and exercise, and household services essential to health care at home.

(31)~~(30)~~ Homemaker Service. A non-skilled service in the home to maintain independent living which does not require a physician's order. An agency does not have to be licensed as a home care organization to provide such services.

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

(33)~~(32)~~ Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(34)~~(33)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(Rule 1200-08-27-.01, continued)

(36)~~(35)~~ Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(37)~~(36)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(38)~~(37)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(39)~~(38)~~ Life Threatening or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(40)~~(39)~~ Medical Record. Medical histories, records, reports, clinical notes, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries and other written electronic or graphic data prepared, kept, made or maintained in an agency that pertains to confinement or services rendered to patients.

(41)~~(40)~~ Medical Social Services. Medical social services must be provided by a qualified social worker under the direction of a physician, in accordance with the plan of care.

(42)~~(41)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or other medical or surgical treatments to achieve the expressed goals of the informed patient. In the case of the incompetent patient, the patient's representative expresses the goals of the patient.

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

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

(45)~~(44)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(46)~~(45)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(47)~~(46)~~ Palliative. The reduction or abatement of pain or troubling symptoms, by appropriate coordination of all elements of the hospice care team, to achieve needed relief of distress.

(48)~~(47)~~ Patient. Hospice patient means only a person who has been diagnosed as terminally ill; been certified by a physician in writing to have an anticipated life expectancy of six (6) months or less; has voluntarily though self or a surrogate requested admission to a hospice; and been accepted by a licensed hospice. Patient will also include a non-hospice patient receiving only palliative care.

(49)~~(48)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(Rule 1200-08-27-.01, continued)

(50)~~(49)~~ Personally Informing. A communication by any effective means from the patient directly to a health care provider.

(51)~~(50)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(52)~~(51)~~ Physical Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(53)~~(52)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

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

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

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

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

(c)

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

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

3. Specify both 1 and 2.

(56)~~(55)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(57)~~(56)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(58)~~(57)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(59)~~(58)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(60)~~(59)~~ Respiratory Technician. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(61)~~(60)~~ Respiratory Therapist. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(Rule 1200-08-27-.01, continued)

(62)~~(61)~~ Respite Care. A short-term period of inpatient care provided to the patient only when necessary to relieve the family members or other persons caring for the patient.

(63)~~(62)~~ Shall or Must. Compliance is mandatory.

(64)~~(63)~~ Social Work Assistant. A person who has a baccalaureate degree in social work, psychology, sociology or other field related to social work, and has at least one (1) year of social work experience in a health care setting. Social work related fields include bachelor/masters degrees in psychology, sociology, human services (behavioral sciences, not human resources), masters degree in counseling fields (psychological guidance and guidance counseling) and degrees in gerontology.

~~(64) Speech Language Pathologist. A person currently licensed as such by The Tennessee Board of Communication Disorders and Sciences.~~

(65) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

(66)~~(65)~~ Spiritual Counselor. A person who has met the requirements of a religious organization to serve the constituency of that religious organization.

(67)~~(66)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(68)~~(67)~~ Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board or equivalent body.

(69)~~(68)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(70)~~(69)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these rules.

(71)~~(70)~~ Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(72)~~(71)~~ Terminally ill. An individual with a medical prognosis that his or her life expectancy is six (6) months or less if the illness runs its normal course.

(73)~~(72)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

(74)~~(73)~~ Volunteer. An individual who agrees to provide services to a hospice care patient and/or family member(s), without monetary compensation, in either direct patient care or an administrative role and supervised by an appropriate hospice care employee.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000. Amendment filed April 11, 2003; effective June 25, 2003.*

(Rule 1200-08-27-.01, continued)
Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed December 23, 2009; effective March 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012. Amendment filed March 27, 2015; effective June 25, 2015.

1200-08-27-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any home care organization providing hospice services without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic area specified by the certificate of need or at the time of the original licensing. The name of the home care organization providing hospice services shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the home care organizations providing hospice services.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the Department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the Department. Patients shall not be admitted to the agency until a license has been issued. Applicants shall not hold themselves out to the public as being an agency until the license has been issued. A license shall not be issued until the agency is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the agency.

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

(f) The applicant shall allow the home care agency providing hospice services to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the Department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the Department before the license may be issued.

(a) For the purposes of licensing, the licensee of an agency has the ultimate responsibility for the operation of the agency, including the final authority to make or control operational decisions and legal responsibility for the business management. A change

(Rule 1200-08-27-.05, continued)

(4) The agency staff shall determine if the patient's needs can be met by the organization's services and capabilities.

(5) Every person admitted for care or treatment to any agency covered by these rules shall be under the supervision of a physician as defined in this chapter who holds a license in good standing. The name of the patient's attending physician shall be recorded in the patient's medical record.

(6) The agency staff shall obtain the patient's written consent for hospice services.

(7) The signed consent form shall be included with the patient's individual clinical record.

(8) A diagnosis must be entered in the admission records of the agency for every person admitted for care or treatment.

(9) No medication or treatment shall be provided to any patient of an agency except on the order of a physician or dentist lawfully authorized to give such an order.

(10) A medical record shall be developed and maintained for each patient admitted.

(11) No patient shall be involuntarily discharged without a written order from the attending physician or the medical director stating the patient does not meet hospice criteria, or through other legal processes, and timely notification of next of kin and/or the authorized representative.

(12) When a patient is discharged, a summary of the significant findings and events of the patient's care, the patient's condition on discharge and the recommendation and arrangement for future care, if any, is required.

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

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000. Amendment filed December 23, 2009; effective March 23, 2010.*

1200-08-27-.06 BASIC AGENCY FUNCTIONS.

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

(a) Nursing services. The hospice service program must provide nursing care and services by or under the supervision of a registered nurse (R.N.) at all times.

(Rule 1200-08-27-.06, continued)

1. Nursing services must be directed and staffed to assure the nursing needs of patients are met.

2. Patient care responsibilities of nursing personnel must be specified.

3. Hospice services must be provided in accordance with recognized standards of practice.

4. A registered nurse may make the actual determination and pronouncement of death under the following circumstances:

   (i) The deceased was receiving the services of a licensed home care organization providing Medicare-certified hospice services;

   (ii) Death was anticipated, and the attending physician and/or the hospice medical director has agreed in writing to sign the death certificate. Such agreement must be present with the deceased at the place of death;

   (iii) The nurse is licensed by the state; and,

   (iv) The nurse is employed by the home care organization providing hospice services to the deceased.

(b) Medical Social Services. Medical Social Services must be provided by a qualified social worker under the direction of a physician.

(c) Physician Services. In addition to palliation and management of terminal illness and related conditions, physician employees of the hospice service program, including the physician member(s) of the interdisciplinary group, must also meet the general medical needs of the patients to the extent these needs are not met by the attending physician.

(d) Counseling Services. Counseling services must be made available to both the patient and the family. Counseling includes bereavement counseling, provided both prior to and after the patient's death, as well as dietary, therapeutic, spiritual and any other counseling services identified in the Plan of Care for the patient and family.

1. Bereavement counseling. There must be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services should reflect family needs, services to be provided and the frequency of services.

2. Dietary counseling. Dietary counseling, when required, must be provided by a qualified individual.

3. Spiritual counseling. Spiritual counseling must include notice as to the availability of clergy.

4. Additional counseling. Counseling may be provided by other members of the interdisciplinary group as well as by other qualified professionals as determined by the hospice program.

(2) Plan of Care. A written plan of care must be established and maintained for each patient admitted to a hospice program and the care provided must be in accordance with the plan.

(Rule 1200-08-27-.06, continued)

(a) Establishment of plan. The plan must be established by the attending physician, the medical director or the physician's designee and the interdisciplinary group prior to providing care.

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

(c) Content of plan. The plan must include an assessment of the individual's needs and identification of the hospice services required, including the management of discomfort and symptom relief. It must state in detail the scope and frequency of services needed to meet the patient's and family's needs.

(3) Interdisciplinary Group. The organization providing hospice services must designate an interdisciplinary group(s) composed of individuals who provide or supervise the care and services offered by the hospice program:

(a) Composition of Group. The hospice service program must have an interdisciplinary group or groups that include at least the following individuals who are employees of the hospice service program:

1. A doctor of medicine or osteopathy;

2. A registered nurse;

3. A social worker; and

4. A pastoral or other counselor.

(b) Role of Group. The interdisciplinary group is responsible for:

1. Participation in the establishment of the plan of care;

2. Provision or supervision of hospice care and services;

3. Periodic review and updating of the plan of care for each individual receiving hospice care; and

4. Establishment of policies governing the day-to-day provision of hospice care and services.

(c) If a hospice service program has more than one interdisciplinary group, it must designate in advance the group it chooses to execute the functions described in part (b) of this paragraph.

(4) Coordinator. The hospice service program must designate a registered nurse to coordinate the implementation of the plan of care of each patient.

(5) Volunteers. The hospice service program may use volunteers, in defined roles, under the supervision of a designated hospice program employee.

(a) Training. The hospice program must provide appropriate orientation and training that is consistent with acceptable standards of hospice practice.

(Rule 1200-08-27-.06, continued)

(b) Role. Volunteers may be used in administrative or direct patient care roles.

1. Recruiting and retaining. The hospice must document active and ongoing efforts to recruit and train volunteers.

2. Availability of clergy. The hospice service program must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to patients who request such visits and must advise patients of this opportunity.

(6) Continuation of Care. An organization providing hospice services must assist in coordinating continued care should the patient be transferred or discharged from the hospice program or the organization.

(7) Short Term Inpatient Care. Short term inpatient care is available for pain control, symptom management and respite services, and if not provided directly, must be provided under a legally binding written agreement that meets the requirements of subparagraph (b) of this paragraph in a licensed nursing home, hospital, or residential hospice which meets the following minimum requirements:

(a) Whether provided directly or indirectly, the facility that provides short term inpatient care must provide twenty-four (24) hour nursing services which are sufficient to meet total nursing needs in accordance with the patient's plan of care. Each hospice patient must receive treatments, medications, and diet as prescribed, and must be kept comfortable, clean, well-groomed and protected from accident, injury and infection. Each shift must include a registered nurse (R.N.) who provides direct patient care.

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

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

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

(b) The facility must be designed and equipped for the comfort and privacy of each hospice patient and family member(s) by providing physical space for private patient/family visiting, accommodations for family members to remain with the patient throughout the night, accommodations for family privacy following a patient's death and decor which is home-like in design and function.

(c) The hospice must furnish to the inpatient provider a copy of the patient's plan of care and specify the inpatient services to be furnished.

(d) The inpatient provider must have established policies consistent with those of the hospice and agree to abide by the patient care protocols established by the hospice for its patients.

(e) The medical record must include a record of all inpatient services and events. A copy of the discharge summary must be provided to the hospice and, if requested, a copy of the medical record is to be provided to the hospice.

(f) The written agreement must designate the party responsible for the implementation of the provisions of the agreement.

(Rule 1200-08-27-.06, continued)

(g) The hospice shall retain responsibility for appropriate hospice care training of the personnel who provide the care under the agreement.

(8) Drugs and treatments shall be administered by appropriately licensed agency personnel, acting within the scope of their licenses. Oral orders for drugs and treatments shall be given to appropriately licensed personnel acting within the scope of their licenses, immediately recorded, signed and dated, and countersigned and dated by the physician.

(9) Performance Improvement Program. Each agency must conduct an ongoing, comprehensive, integrated, self-assessment of the quality and appropriateness of past and present care provided, including inpatient care and contract services. The written performance improvement plan findings are to be used by the hospice to determine the appropriateness and effectiveness of the care provided and to ascertain that professional policies are followed in providing these services. The objectives of those responsible for the performance improvement program are as follows:

(a) To assist the agency in using its personnel and facilities to meet individual and community needs;

(b) To identify and correct problems and/or deficiencies which undermine quality of care and lead to waste of agency and personnel resources;

(c) To help the agency make critical judgments regarding the quality and quantity of its services through self-examination;

(d) To provide opportunities to evaluate the effectiveness of agency policies and when necessary make recommendations to the administration as to controls or changes needed to assure high standards of patient care;

(e) To provide data needed to satisfy state licensure and federal certification requirements; and

(f) To establish criteria to measure the effectiveness and efficiency of the hospice services provided to patients.

(10) Infection Control.

(a) There must be an active performance improvement program for developing guidelines, policies, procedures and techniques for the prevention, control and investigation of infections and communicable diseases.

(b) Formal provisions must be developed to educate and orient all appropriate personnel and/or family members in the practice of aseptic techniques such as handwashing and scrubbing practices, proper hygiene, use of personal protective equipment, dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of patient care equipment and supplies.

(c) Continuing education shall be provided for all agency patient care providers on the cause, effect, transmission, prevention and elimination of infections, as evidenced by the ability to verbalize/or demonstrate an understanding of basic techniques.

(d) The agency shall develop policies and procedures for testing a patient's blood for the presence of the hepatitis B virus and the HIV (AIDS) virus in the event that an employee of the agency, a student studying at the agency or other health care provider

(Rule 1200-08-27-.06, continued)

rendering services at the agency is exposed to a patient's blood or other body fluid. The testing shall be performed at no charge to the patient, and the test results shall be confidential.

(e) The agency and its employees shall adopt and utilize standard precautions (per CDC) for preventing transmission of infections, HIV and communicable diseases.

(f) Precautions shall be taken to prevent the contamination of sterile and clean supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents.

(11) Home Health Aide/Hospice Aide Services. Home Health Aide Services must be available and adequate in frequency to meet the needs of the patients.

(a) The home health aide shall be assigned to a particular patient by a registered nurse. Written instructions for patient care shall be prepared by a registered nurse or therapist as appropriate. Duties may include the performance of simple procedures as an extension of therapy services, personal care, ambulation and exercises, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.

(b) The registered nurse, or appropriate professional staff member if other home health services are provided, shall make a supervisory visit to the patient's residence at least monthly, either when the aide is present to observe and assist or when the aide is absent (preferably alternating visits), to assess the aide's competence in providing care and determine whether goals are being met.

(c) There shall be continuing in-service programs on a regularly scheduled basis with on-the-job training during supervisor visits as issues are identified.

(12) Physical Therapy, Occupational Therapy and Speech Language Pathology Services. Physical therapy services, occupational therapy services, and speech language pathology services must be available and when provided, offered in a manner consistent with accepted standards of practice.

(13) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

(14)~~(13)~~ Medical Supplies. Medical supplies and appliances, including drugs and biologicals, must be provided as needed for the palliation and management of the terminal illness or conditions directly attributable to the terminal diagnosis.

(a) Administration. All drugs and biologicals must be administered in accordance with accepted standards of practice and only by appropriately licensed employees of the hospice.

(b) The hospice must have a policy for the disposal of controlled drugs maintained in the patient's home or temporary place of residence when those drugs are no longer needed by the patient.

(c) Drugs and biologicals may be administered by the patient or his/her family member if the patient's attending physician has approved.

(Rule 1200-08-27-.06, continued)

(15)~~(14)~~ Medical Records.

(a) A medical record containing past and current findings in accordance with accepted professional standards shall be maintained for every patient receiving hospice services. In addition to the plan of care, the record shall contain: appropriate identifying information; name of physician; all medications and treatments; and signed and dated clinical notes. Clinical notes shall be written the day on which service is rendered and incorporated no less often than weekly; copies of summary reports shall be sent to the physician; and a discharge summary shall be dated and signed within 7 days of discharge.

(b) A home care organization providing hospice services is authorized to receive and appropriately act on a written order for a plan of care for a patient concerning a home health service signed by a physician that is transmitted to the agency by electronically signed electronic mail. Such order that is transmitted by electronic mail shall be deemed to meet any requirement for written documentation imposed by this regulation.

(c) All medical records, either written, electronic, graphic or otherwise acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least ten (10) years after which such records may be destroyed. However, in cases of patients under mental disability or minority, their complete agency records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the patient, whichever is longer. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of the contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the agency's policies and procedures, and no record may be destroyed on an individual basis.

(d) Even if the agency discontinues operations, records shall be maintained as mandated by this Chapter and the Tennessee Medical Records Act (T.C.A. §§ 68-11-308). If a patient is transferred to another health care facility or agency, a copy of the record or an abstract shall accompany the patient when the agency is directly involved in the transfer.

(e) Medical records information shall be safeguarded against loss or unauthorized use. Written procedures govern use and removal of records and conditions for release of information. The patient's written consent shall be required for release of information when the release is not otherwise authorized by law.

(f) For purposes of this rule, the requirements for signature or countersignature by a physician or other person responsible for signing, countersigning or authenticating an entry may be satisfied by the electronic entry by such person of a unique code assigned exclusively to him or her, or by entry of other unique electronic or mechanical symbols, provided that such person has adopted same as his or her signature in accordance with established protocol or rules.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-3-511, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-260, and 68-11-304.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000. Amendment filed September 13, 2002; effective November 27, 2002 Amendment filed February 23, 2007; effective May 9, 2007. Amendments filed March 27, 2015; effective June 25, 2015.*

1200-08-27-.07 RESERVED.

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

CHAPTER 1200-08-28
STANDARDS FOR HIV SUPPORTIVE LIVING CENTERS

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1200-08-28-.01 DEFINITIONS.

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

(2) Administrator. An individual appointed by a governing body who is responsible for the day to day management of the HIV Supportive Living Facility.

(3) Adult. An individual who has capacity and is at least 18 years of age.

(4) Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(6) Bereavement Counseling. Counseling services provided to the individual's family and/or significant other both prior to and after the individual's death.

(7) Bereavement Counselor. An individual who has at least a bachelor's degree in social work, counseling, psychology, pastoral care, or specialized training or experience in bereavement theory and counseling.

(8) Board. The Tennessee Board for Licensing Health Care Facilities.

(9) Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a resident to make health care decisions while having the capacity to do so. A resident shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a resident shall have the burden of proving lack of capacity.

(10) Cardiopulmonary Resuscitation (CPR). The administering of any means or device to support cardiopulmonary functions in a resident, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual

(Rule 1200-08-28-.01, continued)

or mechanical ventilations or respirations, defibrillation, the administration of drugs and/or chemical agents intended to restore cardiac and/or respiratory functions in a resident where cardiac or respiratory arrest has occurred or is believed to be imminent.

(11) Certified Master Social Worker. A person currently certified as such by the Tennessee Board of Social Worker Certification and Licensure.

(12) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(13)~~(12)~~ Clinical Note. A written and dated notation containing a resident assessment, responses to medications, treatments and services and/or any changes in condition signed by a health professional who made contact with the resident, family or significant other.

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

(15)~~(14)~~ Competent. A resident who has capacity.

(16)~~(15)~~ Core Services. Services consisting of nursing, medical social services, physician services and counseling services.

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

(18)~~(17)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

(19)~~(18)~~ Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners.

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

(21)~~(20)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(22)~~(21)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(23)~~(22)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(24)~~(23)~~ Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state, or federal regulations.

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

(26)~~(25)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(Rule 1200-08-28-.01, continued)

(27)~~(26)~~ Health Care Decision-maker. In the case of a resident who lacks capacity, the resident's health care decision-maker is one of the following: the resident's health care agent as specified in an advance directive, the resident's court-appointed guardian or conservator with health care decision-making authority, the resident's surrogate as determined pursuant to Rule 1200-08-28-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(28)~~(27)~~ Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.

(29)~~(28)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(30)~~(29)~~ Home Care Organization. As defined by T.C.A. § 68-11-201 "home care organizations" provides home health services, home medical equipment services or hospice services to residents on an outpatient basis in either their regular or temporary place of residence.

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

(32)~~(31)~~ Incompetent. A resident who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

(33)~~(32)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

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

(35)~~(34)~~ Involuntary Transfer. The movement of a resident without the consent of the resident, the resident's legal guardian, next of kin or representative, with required notification to the appropriate agencies.

(36)~~(35)~~ Licensed Clinical Social Worker. A person currently licensed as such by the Tennessee Board of Social Workers.

(37)~~(36)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(38)~~(37)~~ Licensed Psychologist. A person currently licensed as such by the Tennessee Board of Examiners in Psychology.

(39)~~(38)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(40)~~(39)~~ Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.

(41)~~(40)~~ Medical Director. A licensed physician employed by the HIV supportive living facility to be responsible for medical care in the facility.

(Rule 1200-08-28-.01, continued)

(42)~~(41)~~ Medical Emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the resident's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(43)~~(42)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the resident or other medical or surgical treatments to achieve the expressed goals of the informed resident. In the case of the incompetent resident, the resident's representative expresses the goals of the resident.

(44)~~(43)~~ Medical Social Services. When provided, shall be given by a certified master social worker, a licensed clinical social worker, or by a social worker or social work assistant employed by a home care organization or by contract with the facility and under the supervision of a certified master social worker or licensed clinical social worker, and in accordance with the plan of care. The medical social services provider shall assist the physician and other team members in understanding the significant social and emotional factors related to the health problems, participate in the development of the plan of care, prepare clinical and progress notes, work with the family, utilize appropriate community resources, participate in discharge planning and inservice programs, and act as a consultant to other organization personnel.

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

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

(47)~~(46)~~ N.F.P.A. The National Fire Protection Association.

(48)~~(47)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(49)~~(48)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(50)~~(49)~~ Palliative. The reduction or abatement of pain or troubling symptoms by appropriate coordination of all elements of the health care team to achieve needed relief of distress.

(51)~~(50)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(52)~~(51)~~ Personal Care Aide. A nursing assistant or a person who can demonstrate through other education or experience that he or she is qualified to provide assistance with basic care services, including simple procedures such as feeding, personal grooming, ambulating, socializing, medication prompting, exercising and other household services essential to health care.

(53)~~(52)~~ Personally Informing. A communication by any effective means from the resident directly to a health care provider.

(Rule 1200-08-28-.01, continued)

(54)~~(53)~~ Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.

(55)~~(54)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(56)~~(55)~~ Physical Therapist Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(57)~~(56)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

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

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

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

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

(c)

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

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

3. Specify both 1 and 2.

(60)~~(59)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(61)~~(60)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(62)~~(61)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the resident's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(63)~~(62)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(64)~~(63)~~ Resident. An individual who has been diagnosed with symptomatic HIV (human immunodeficiency virus) disease, who has a physician who acts as the primary care provider, and who has voluntarily requested admission to, and been accepted by a licensed residential facility.

(Rule 1200-08-28-.01, continued)

(65)~~(64)~~ Resident File. Medical histories, records, reports, clinical notes, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, and other written electronics, or graphic data prepared, kept, made or maintained in the facility that pertains to confinement or services rendered to residents.

(66)~~(65)~~ Respiratory Therapist. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(67)~~(66)~~ Respiratory Therapy Technician. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(68)~~(67)~~ Respite Care. A short-term period of inpatient care provided to a hospice patient only when necessary to relieve the family members or other persons caring for the patient.

(69)~~(68)~~ Secured Unit. A facility or distinct part of a facility where the residents are intentionally denied egress by any means.

(70)~~(69)~~ Shall or Must. Compliance is mandatory.

(71)~~(70)~~ Social Worker. An individual who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education and has one (1) year of social work experience in a health care setting.

(72)~~(71)~~ Social Work Assistant. A person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work, and has at least one (1) year of social work experience in a health care setting. Social work related fields include bachelor/masters degrees in psychology, sociology, human services (behavioral sciences, not human resources), masters degree in counseling fields (psychological guidance and guidance counseling) and degrees in gerontology.

~~(72) Speech Language Pathologist. A person currently licensed as such by The Tennessee Board of Communication Disorders and Sciences.~~

(73) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

(74)~~(73)~~ Spiritual Counselor. A person who has met the requirements of a religious organization to serve the constituency of that organization.

(75)~~(74)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(76)~~(75)~~ Student. A person currently enrolled in an accredited course of study that is approved by the appropriate licensing board or equivalent body.

(77)~~(76)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(78)~~(77)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these regulations.

(Rule 1200-08-28-.01, continued)

(79)~~(78)~~ Surrogate. An individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident.

(80)~~(79)~~ Terminally ill. An individual with a medical prognosis that his or her life expectancy is six (6) months or less if the illness runs its normal course.

(81)~~(80)~~ Transfer. The movement of a resident at the direction of a physician or other qualified or certified professionals when a physician is not readily available, but does not include such movement of a resident who leaves the facility against medical advice.

(82)~~(81)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the resident.

(83)~~(82)~~ Volunteer. An individual who agrees to provide services to a resident, staff, significant other and/or family member(s), without monetary compensation, with appropriate supervision by the facility.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-216, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed July 27, 2000; effective October 10, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed December 15, 2005; effective February 28, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*

1200-08-28-.02 LICENSING PROCEDURES.

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any HIV supportive living center without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure at the time of the original licensing. The name of the HIV supportive living center shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the HIV supportive living center.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee based on the number of beds as follows:

1.	Less than 25 beds	$ 800.00
2.	25 to 49 beds, inclusive	$ 1,000.00
3.	50 to 74 beds, inclusive	$1,200.00
4.	75 to 99 beds, inclusive	$1,400.00
5.	100 to 124 beds, inclusive	$ 1,600.00
6.	125 to 149 beds, inclusive	$ 1,800.00

(Rule 1200-08-28-.05, continued)

3. Identifying and alleviating safety risks to the resident;

4. Providing assistance in the activities of daily living for the resident; and,

5. Communicating with families and other persons interested in the resident.

(18) Any residential facility licensed by the board of licensing health care facilities shall upon admission provide to each resident the division of adult protective services' statewide toll-free number: 888-277-8366.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 71-6-121.* ***Administrative History:*** *Original rule filed July 27, 2000; effective October 10, 2000. Amendment filed April 20, 2006; effective July 4, 2006.*

1200-08-28-.06 BASIC HIV SUPPORTIVE LIVING FACILITY FUNCTIONS.

(1) A HIV supportive living facility must ensure that substantially all core services are routinely provided directly by HIV supportive living facility employees. A HIV supportive living facility may use contracted staff if necessary to supplement HIV supportive living facility employees in order to meet the needs of residents.

(a) Nursing services. The HIV supportive living facility must provide nursing care and services by, or under the supervision of, a registered nurse (R.N.) at all times.

1. Nursing services must be directed and staffed to assure the nursing needs of residents are met.

2. Resident care responsibilities of nursing personnel must be specified.

3. HIV care services must be provided in accordance with recognized standards of practice.

(b) Medical Social Services. Medical Social Services must be provided by a qualified social worker under the direction of a physician.

(c) Physician Services. In addition to palliation and management of HIV care, physician employees of the HIV supportive living facility including the physician member(s) of the interdisciplinary group, must also meet the general medical needs of the residents to the extent these needs are not met by the attending physician.

(d) Counseling Services. Counseling services must be made available to the individual, the individual's family and/or significant other, and staff. Counseling includes bereavement counseling, provided both prior to and after the resident's death, as well as dietary, therapeutic, spiritual and any other counseling services identified in the plan of care for the individual and family and/or significant other while the individual is a resident of the HIV supportive living facility.

1. Bereavement counseling. There must be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services should reflect family/significant other needs, services to be provided, and the frequency of services.

2. Dietary counseling. Dietary counseling, when required, must be provided by a qualified individual.

(Rule 1200-08-28-.06, continued)

3. Spiritual counseling. Spiritual counseling must include notice to residents as to the availability of clergy.

4. Additional counseling. Counseling may be provided by other members of the interdisciplinary group as well as by other qualified professionals as determined by the HIV supportive living facility.

(2) Plan of Care. A written plan of care must be established and maintained for each individual admitted to a HIV supportive living facility, and the care provided to an individual must be in accordance with the plan.

(a) Establishment of plan. The plan must be established by the attending physician, the medical director or the physician's designee and the interdisciplinary group prior to providing care.

(b) Review of plan. The plan must be reviewed and updated as the resident's condition changes, but at intervals of no more than (14) days, by the attending physician, the medical director or the physician's designee and the interdisciplinary group. These reviews must be documented.

(c) Content of plan. The plan must include an assessment of the individual's needs and identification of the HIV care services required including the management of discomfort and symptom relief It must state in detail the scope and frequency of services needed to meet the resident's and family's/significant other's needs.

(d) Coordinator. The HIV supportive living facility must designate a licensed professional nurse to coordinate the implementation of the plan of care of each resident.

(e) Volunteers. The HIV supportive living facility may use volunteers, in defined roles, under the supervision of a designated HIV supportive living facility employee.

1. Training. The HIV supportive living facility must provide appropriate orientation and training that is consistent with acceptable standards of HIV supportive living facility practice.

2. Role. Volunteers shall be used in administrative or direct resident care roles.

3. Recruiting and retaining. The HIV supportive living facility must document active and ongoing efforts to recruit and train volunteers.

4. Availability of clergy. The HIV supportive living facility must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to residents who request such visits and must advise residents of this opportunity.

(3) Continuation of Care. A HIV supportive living facility must assist in coordinating continued care should the resident be transferred or discharged from the HIV supportive living facility.

(4) Drugs and treatments shall be administered by appropriately licensed facility personnel acting within the scope of their license. Oral orders for drugs and treatments shall be given to appropriately licensed personnel acting within the scope of their licenses, immediately recorded, signed and dated, and countersigned and dated by the physician within ten (10) days of issuance of the oral order.

(5) Performance Improvement Program. The HIV supportive living facility must ensure that there is an effective facility-wide performance improvement program to evaluate resident care and

(Rule 1200-08-28-.06, continued)

performance of the organization. The administrator shall assure that a Performance Improvement Committee, composed of a physician, a licensed professional nurse, a social worker and a pastoral or other counselor, is in place to ensure that the facility has adequate policies and procedures in place, to review performance monitoring and activities, and to provide oversight and address identified care issues within the facility. The performance improvement program must be ongoing and have a written plan of implementation which assures that:

(a) All organized services related to resident care, including services furnished by a contractor, are evaluated;

(b) Nosocomial infections and medication therapy are evaluated;

(c) All services performed in the facility are evaluated as to the appropriateness of diagnosis and treatment;

(d) The HIV supportive living facility must have an ongoing plan, consistent with available community and facility resources, to provide or make available services that meet the medically-related needs of its HIV care residents;

(e) The facility must develop and implement plans for improvement to address deficiencies identified by the performance improvement program and must document the outcome of the remedial action;

(f) Performance Improvement Program records are not disclosable except when such disclosure is required to demonstrate compliance with this section;

(g) Good faith attempts by the Performance Improvement Program Committee to identify and correct deficiencies will not be used as a basis for sanctions.

(6) Infection Control.

(a) The HIV supportive living facility must provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. There must be an active program for the prevention, control, and investigation of infections and communicable diseases.

(b) The administrator shall assure that an Infection Control Committee, including the medical director and members of the nursing staff and administrative staff, develops guidelines and techniques for the prevention, surveillance, control and reporting of facility infections. Duties of the committee shall include the establishment of:

1. Written infection control policies;

2. Techniques and systems for identifying, reporting, investigating and controlling infections in the facility;

3. Written procedures governing the use of aseptic techniques and procedures in the facility;

4. Written procedures concerning food handling, laundry practices, disposal of environmental and resident wastes, traffic control and visiting rules, sources of air pollution, and routine culturing of autoclaves and sterilizers;

5. A log of incidents related to infectious and communicable diseases;

(Rule 1200-08-28-.06, continued)

6. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing, proper grooming, masking and dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of resident equipment and supplies; and

7. Continuing education for all facility personnel on the cause, effect, transmission, prevention, and elimination of infections.

(c) The administrator, the medical director and a licensed professional nurse must ensure that the facility-wide performance improvement program and training programs address problems identified by the infection control program and must be responsible for the implementation of successful corrective action plans in affected problem areas.

(d) The facility shall develop policies and procedures for testing a resident's blood for the presence of blood borne infections in the event that an employee of the facility, a student studying at the facility, or other health care provider rendering services at the facility is exposed to a resident's blood or other body fluid. The testing shall be performed at no charge to the resident, and the test results shall be confidential.

(e) The facility and its employees shall adopt appropriate policies to evaluate staff for exposure to blood-borne pathogens, and utilize standard or universal precautions for preventing transmission of infections, HIV, and communicable diseases.

(f) Precautions shall be taken to prevent the contamination of sterile supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents, decontamination and preparation areas shall be separated.

(g) Space and facilities for housekeeping equipment and supply storage shall be provided in each service area. Storage for bulk supplies and equipment shall be located away from resident care areas. The building shall be kept in good repair, clean, sanitary and safe at all times.

(h) The facility shall appoint a housekeeping supervisor who shall be responsible for:

1. Organizing and coordinating the facility's housekeeping service;

2. Acquiring and storing sufficient housekeeping supplies and equipment for facility maintenance; and,

3. Assuring the clean and sanitary condition of the facility to provide a safe hygienic environment for residents and staff. Cleaning shall be accomplished in accordance with the infection control rules and regulations herein and facility policy.

(i) Laundry facilities located in the HIV supportive living facility shall:

1. Be equipped with an area for receiving, processing, storing and distributing clean linen;

2. Be located in an area that does not require transportation for storage of soiled or contaminated linen through food preparation, storage or dining areas;

3. Provide space for storage of clean linen and for bulk storage within clean areas of the facility; and

(Rule 1200-08-28-.06, continued)

4. Provide carts, bags or other acceptable containers appropriately marked to identify those used for soiled linen and those used for clean linen to prevent dual utilization of the equipment and cross contamination.

(j) The facility shall name an individual who is responsible for laundry service. This individual shall be responsible for:

1. Establishing a laundry service, either within the HIV supportive living facility or by contract, that provides the facility with sufficient clean, sanitary linen at all times;

2. Knowing and enforcing infection control rules and regulations for the laundry service;

3. Assuring the collection, packaging, transportation and storage of soiled, contaminated, and clean linen is in accordance with all applicable infection control rules, regulations and procedures; and,

4. Assuring that a contract laundry service complies with all applicable infection control rules, regulations and procedures.

(7) Personal Care Services. Aide services must be available and adequate in frequency to meet the needs of the residents.

(a) The personal care aide shall be assigned to a particular resident by a licensed professional nurse. Written instructions for resident care shall be prepared by a registered nurse or therapist as appropriate. Duties may include the performance of simple procedures to assist residents with basic care services, including simple procedures such as feeding, personal grooming, ambulating, socializing, medication prompting, reporting changes in the resident's condition and needs, completing appropriate records, exercising and other household services essential to health care.

(b) The registered nurse shall monitor and assess the aide's competence in providing care and determine whether goals are being met.

(c) There shall be regularly scheduled continuing in-service programs which include on-the-job training as needed.

(8) Physical therapy, occupational therapy, respiratory therapy and speech language pathology. Physical therapy services, occupational therapy services, respiratory therapy services and speech-language pathology services must be available, and when provided, offered in a manner consistent with accepted standards of practice.

(9) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

(10)~~(9)~~ Medical supplies. Medical supplies and appliances including drugs and biologicals, must be provided as needed for the palliation and management of HIV or conditions directly attributable to the HIV diagnosis.

(a) Administration. All drugs and biologicals must be administered in accordance with accepted standards of practice and only by appropriately licensed employees of the HIV supportive living facility.

(b) The HIV supportive living facility must have a policy for the disposal of controlled drugs when those drugs are no longer needed by the resident.

(Rule 1200-08-28-.06, continued)

(c) Drugs and biologicals may be administered by the resident or a family member or significant other if the resident's attending physician has approved.

(11)~~(10)~~ Resident File.

(a) A resident file containing past and current findings in accordance with accepted professional standards shall be maintained for every HIV care resident. The record must be complete, promptly and accurately documented, readily accessible and systematically organized to facilitate retrieval. Each file is a comprehensive compilation of information. Entries are made for all services provided. Entries are made and signed by the person providing the services. The record includes all services whether furnished directly or under arrangements made by the HIV supportive living facility. Each individual's record must contain:

1. The initial and subsequent assessments;

2. The plan of care;

3. Identification data;

4. Consent and authorization and election forms;

5. Pertinent medical history; and

6. Complete documentation of all services, volunteers and events (including evaluations, treatments, progress notes, etc.).

(b) All resident records, either written, electronic, graphic or otherwise acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least (10) years after which such records may be destroyed. However, in cases of residents under mental disability or minority, their complete HIV supportive living facility records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the resident, whichever is longer. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of the contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the HIV supportive living facility's policies and procedures, and no record may be destroyed on an individual basis.

(c) Even if the HIV supportive living facility discontinues operations, records shall be maintained as mandated by these rules and the Tennessee Medical Records Act (see T.C.A. §§ 68-11-308). If a resident is transferred to another health care facility or agency, a copy of the record or an abstract shall accompany the resident when the HIV supportive living facility is directly involved in the transfer.

(d) The HIV supportive living facility must have a procedure for ensuring the confidentiality of resident records. Information from, or copies of, records may be released only to authorized individuals, and the facility must ensure that unauthorized, individuals cannot gain access to, or alter, resident records. Original resident records must be released by the facility only in accordance with federal and state laws.

(e) For purposes of this rule, the requirements for signature or countersignature by a physician or other person responsible for signing, countersigning and entry may be satisfied by the electronic entry by such person of a unique code assigned exclusively to him or her, or by entry of other unique electronic or mechanical symbols, provided

(Rule 1200-08-28-.06, continued)

that such person has adopted same as his or her signature in accordance with established protocol or rules.

(f) All entries must be legible, complete, dated and authenticated according to facility policy.

(12)~~(11)~~ Pharmaceutical Services.

(a) The HIV supportive living facility shall have pharmaceutical services that meet the needs of the residents and are in accordance with the Tennessee Board of Pharmacy statutes and regulations. The facility is responsible for developing policies and procedures that minimize drug errors.

(b) All internal and external medications and preparations intended for human use shall be stored separately. They shall be properly stored in medicine compartments, including cabinets on wheels, or drug rooms. Such cabinets or drug rooms shall be kept securely locked when not in use and the key must be in the possession of the supervising nurse or other authorized persons. Poisons or external medications shall not be stored in the same compartment and shall be labeled as such.

(c) Schedule II drugs must be stored behind two (2) separately locked doors at all times and accessible only to persons in charge of administering medication.

(d) Every HIV supportive living facility shall comply with all state and federal regulations governing Schedule II drugs.

(e) A notation shall be made in a Schedule II drug book and in the resident's nursing notes each time a Schedule II drug is given. The notation shall include the name of the resident receiving the drug, name of the drug, the dosage given, the method of administration, the date and time given and the name of the physician prescribing the drug.

(f) All oral orders shall be immediately recorded, designated as such and signed by the person receiving them and countersigned by the physician within ten (10) days.

(g) All orders for drugs, devices and related materials must be in writing and signed by the practitioner or practitioners responsible for the care of the resident. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they shall be:

1. Accepted only by personnel that are authorized to do so by the medical staff policies and procedures, consistent with federal and state law; and,

2. Signed or initialed by the prescribing practitioner according to HIV supportive living facility policy.

(h) Medications not specifically limited as to time or number of doses when ordered are controlled by automatic stop orders or other methods in accordance with written policies. No Schedule II drug shall be given or continued beyond seventy-two (72) hours without a written order by the physician.

(i) Medication administration records (MAR) shall be checked against the physician's orders. Each dose shall be properly recorded in the clinical record after it has been administered.

(Rule 1200-08-28-.06, continued)

(j) Preparation of doses for more than one scheduled administration time shall not be permitted.

(k) Medication shall be administered only by licensed medical or licensed nursing personnel or other licensed health professionals acting within the scope of their license.

(l) Unless the unit dose package system is used, individual prescriptions of drugs shall be kept in the original container with the original label intact showing the name of the resident, the drug, the physician, the prescription number and the date dispensed.

(m) Legend drugs shall be dispensed by a licensed pharmacist.

(n) Any unused portions of prescriptions shall be turned over to the resident only on a written order by the physician. A notation of drugs released to the resident shall be entered into the medical record. All unused prescriptions left in a HIV supportive living facility must by destroyed on the premises and recorded by a pharmacist. Such record shall be kept in the HIV supportive living facility.

(13)~~(12)~~ Laboratory Services. The HIV supportive living facility must maintain or have available, either directly or through a contractual agreement, adequate laboratory services to meet the needs of the residents. The HIV supportive living facility must ensure that all laboratory services provided to its residents are performed in a facility licensed in accordance with the Tennessee Medical Laboratory Act (TMLA). All technical laboratory staff shall be licensed in accordance with the TMLA and shall be qualified by education, training and experience for the type of services rendered.

(14)~~(13)~~ Food and Dietetic Services.

(a) The HIV supportive living facility must designate a person, either directly or by contractual agreement, to serve as the food and dietetic services director with responsibility for the daily management of the dietary services.

(b) There must be a qualified dietitian, full time, part-time, or on a consultant basis who is responsible for the development and implementation of a nutrition care process to meet the needs of residents for health maintenance, disease prevention and, when necessary, medical nutrition therapy to treat an illness, injury or condition.

(c) Menus must meet the needs of the residents.

1. Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the residents and must be prepared and served as prescribed.

2. Special diets shall be prepared and served as ordered.

3. Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the residents.

4. A current therapeutic diet manual approved by the dietitian and medical director must be readily available to all medical, nursing, and food service personnel.

(d) Education programs, including orientation, on-the-job training, inservice education, and continuing education shall be offered to dietetic services personnel on a regular basis. Programs shall include instruction in the use of equipment, personal hygiene, proper inspection, and the handling, preparing and serving of food.

(Rule 1200-08-28-.06, continued)

(e) A minimum of three (3) meals in each twenty-four (24) hour period shall be offered. A supplemental night meal shall be offered if more than fourteen (14) hours lapse between supper and breakfast. Additional nourishment shall be provided to residents with special dietary needs. A minimum of three (3) days supply of food shall be on hand.

(f) Food shall be protected from dust, flies, rodents, unnecessary handling, droplet infection, overhead leakage and other sources of contamination0 whether in storage or while being prepared and served and/or transported through hallways.

(g) Perishable food shall not be allowed to stand at room temperature except during necessary periods of preparation or serving. Prepared foods shall be kept hot (140°F or above) or cold (45°F or less). Appropriate equipment for temperature maintenance, such as hot and cold serving units or insulated containers, shall be used.

(h) Dishwashing machines shall be used according to manufacturer specifications.

(i) All dishes, glassware and utensils used in the preparation and serving of food and drink shall be cleaned and sanitized after each use.

(j) The cleaning and sanitizing of handwashed dishes shall be accomplished by using a three-compartment sink according to the current U.S. Public Health Service Sanitation Manual.

(k) The kitchen shall contain sufficient refrigeration equipment and space for the storage of perishable foods.

(l) All refrigerators and freezers shall have thermometers. Refrigerators shall be kept at a temperature not to exceed 45°F. Freezers shall be kept at a temperature not to exceed 0°F.

(m) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the "U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments" and the current U.S. Public Health Service Sanitation Manual should be used as a guide to food sanitation.

Authority: *T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed July 27, 2000; effective October 10, 2000.*

1200-08-28-.07 RESERVED.

1200-08-28-.08 BUILDING STANDARDS.

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

(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of

RULES
OF
DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

CHAPTER 1200-08-34
STANDARDS FOR HOME CARE ORGANIZATIONS
PROVIDING PROFESSIONAL SUPPORT SERVICES

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1200-08-34-.05	Admissions, Discharges, and Transfers
1200-08-34-.06	Basic Agency Functions
1200-08-34-.07	Reserved
1200-08-34-.08	Reserved
1200-08-34-.09	Reserved
1200-08-34-.10	Infectious and Hazardous Waste
1200-08-34-.11	Records and Reports
1200-08-34-.12	Consumer Rights
1200-08-34-.13	Policies and Procedures for Health Care Decision-Making
1200-08-34-.14	Reserved
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1200-08-34-.01 DEFINITIONS.

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

(2) Administrator. A person who establishes policies and procedures and is responsible for the activities of the agency and its staff. This person may be a physician, registered nurse, therapist, or a person with at least one (1) year experience in a health or disability related field. The administrator of a home care organization may serve as both a home health agency and professional support service agency administrator if both agencies are owned by the same corporation or legal entity.

(3) Adult. An individual who has capacity and is at least 18 years of age.

(4) Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.

(5) Agency. A home care organization providing professional support services.

(6) Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.

(7) Board. The Tennessee Board for Licensing Health Care Facilities.

(8) Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a consumer to make health care decisions while having the capacity to do so. A consumer shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a consumer shall have the burden of proving lack of capacity.

(9) Clinical Fellow. A Speech Language Pathologist who is in the process of obtaining his or her paid professional experience, as defined by a Communications Disorders and Sciences Board-approved accreditation agency, before being qualified for licensure.

(Rule 1200-08-34-.01, continued)

(10)~~(9)~~ Clinical Note. A written and dated notation containing a consumer assessment, responses to medications, treatments, services, any changes in condition and signed by a health team member who made contact with the consumer.

(11)~~(10)~~ Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

(12)~~(11)~~ Competent. A consumer who has capacity.

(13)~~(12)~~ Comprehensive Nursing assessment. An assessment conducted by a registered nurse which consists of four parts: completion of a Physical Status Review (PSR); consumer and family history; identification of health concerns, functional abilities, activities of daily living; and, completion of a head to toe physical assessment.

(14)~~(13)~~ Consumer. Any person with a primary diagnosis of mental retardation or developmental disability served through the Division of Mental Retardation Services or the Department of Mental Health and Developmental Disabilities in need of nursing, occupational, physical or speech therapy through a professional support service agency.

(15)~~(14)~~ Department. The Tennessee Department of Health.

(16)~~(15)~~ Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.

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

(18)~~(17)~~ Emancipated Minor. Any minor who is or has been married or has by court order or otherwise been freed from the care, custody and control of the minor's parents.

(19)~~(18)~~ Emergency Responder. A paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function under law or rendering emergency care at the scene of an emergency.

(20)~~(19)~~ Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.

(21)~~(20)~~ Hazardous Waste. Materials whose handling, use, storage and disposal are governed by local, state or federal regulations.

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

(23)~~(22)~~ Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.

(24)~~(23)~~ Health Care Decision-maker. In the case of a consumer who lacks capacity, the consumer's health care decision-maker is one of the following: the consumer's health care agent as specified in an advance directive, the consumer's court-appointed guardian or conservator with health care decision-making authority, the consumer's surrogate as determined pursuant to Rule 1200-08-34-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

(Rule 1200-08-34-.01, continued)

(25)~~(24)~~ Health Care Institution. A health care institution as defined in T.C.A. §68-11-1602.

(26)~~(25)~~ Health Care Provider. A person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

(27)~~(26)~~ Individual instruction. An individual's direction concerning a health care decision for the individual.

(28)~~(27)~~ Individual Support Plan (ISP). The document resulting from a process of person-centered planning. The ISP describes in detail the person, including his/her vision for his/her future, preferences, non-negotiables, and other information required to support the person in daily life. The ISP contains outcomes to be achieved with the assistance of the person's Circle of Support that relate to the person's vision for the future. The ISP is written upon a person's enrollment in Department of Mental Retardation Services and updated thereafter as changes occur in the individual's life, or at least annually.

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

(30)~~(29)~~ Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(31)~~(30)~~ Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.

(32)~~(31)~~ Life Threatening or Serious Injury. Injury requiring the consumer to undergo significant additional diagnostic or treatment measures.

(33)~~(32)~~ Medical Record. Medical histories, records, reports, clinical notes, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries and other written electronic, or graphic data prepared, kept, made or maintained in an agency that pertains to confinement or services rendered to consumers. The medical record shall meet the standards established in the contractual agreement between the state agency financially responsible for services to individuals with mental retardation or developmental disabilities.

(34)~~(33)~~ Medically Inappropriate Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the consumer or other medical or surgical treatments to achieve the expressed goals of the informed consumer. In the case of the incompetent consumer, the consumer's representative expresses the goals of the consumer.

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

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

(37)~~(36)~~ Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(Rule 1200-08-34-.01, continued)

(38)~~(37)~~ Occupational Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(39)~~(38)~~ Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(40)~~(39)~~ Personally Informing. A communication by any effective means from the consumer directly to a health care provider.

(41)~~(40)~~ Physical Status Report (PSR). An instrument used by a registered nurse or other designated professional staff to determine level of risk and define the required health services and supports.

(42)~~(41)~~ Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(43)~~(42)~~ Physical Therapy Assistant. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.

(44)~~(43)~~ Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.

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

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

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

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

(c)

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

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

3. Specify both 1 and 2.

(47)~~(46)~~ Plan of Care. Health care plan resulting from the comprehensive nursing assessment and/or therapy plan identifying the need for nursing, physical, occupational, or speech therapy for consumers of professional support services. The plan shall meet the standards established in the contractual agreement between the state agency financially responsible for services to individuals with mental retardation or developmental disabilities.

(48)~~(47)~~ Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.

(Rule 1200-08-34-.01, continued)

(49)~~(48)~~ Professional Support Services. Nursing, occupational, physical or speech therapy services provided to individuals with mental retardation or developmental disabilities pursuant to a contract with the state agency financially responsible for such services.

(50)~~(49)~~ Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders.

(51)~~(50)~~ Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the consumer's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(52)~~(51)~~ Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

(53)~~(52)~~ Shall or Must. Compliance is mandatory.

(54)~~(53)~~ Site Code. An approved location from which the professional support services may be provided as deemed by the Department of Mental Retardation Services with written notice provided to the Department of Health by the professional support service agency for each site code approved for such agency.

~~(54) Speech Language Pathologist. A person currently licensed as such by the Tennessee Board of Communication Disorders and Sciences or, for purposes of these rules, a Speech Language Pathologist who is currently in their Clinical Fellowship Year.~~

(55) Speech Language Pathologist. As defined in T.C.A. § 63-17-103, a person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

(56)~~(55)~~ State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(57)~~(56)~~ Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(58)~~(57)~~ Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these rules.

(59)~~(58)~~ Surrogate. An individual, other than a consumer's agent or guardian, authorized to make a health care decision for the consumer.

(60)~~(59)~~ Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the consumer.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed January 24, 2003; effective April 9, 2003. Amendments filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*

(Rule 1200-08-34-.05, continued)

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed January 24, 2003; effective April 9, 2003.*

1200-08-34-.06 BASIC AGENCY FUNCTIONS.

(1) All personnel providing professional support services shall assure that their efforts effectively complement other services provided to the consumer, are functionally integrated into the individual daily routine and support the outcome outlined in the individual support plan. A written report of progress shall be provided to the consumer's support coordinator/case manager monthly. A written summary report for each consumer shall be sent to the attending physician at least annually.

(2) Plan of Care.

(a) The written plan of care, developed in consultation with the agency staff, shall cover all pertinent diagnoses, including mental status, types of services and equipment required, frequency of services, prognosis, rehabilitation potential, functional limitations, activities permitted, nutritional requirements, medications and treatments, any safety measures to protect against injury, instructions for timely discharge or referral, and any other appropriate items. If a physician refers a consumer under a plan of care which cannot be completed until after an evaluation visit, the physician shall be consulted to approve additions or modifications to the original plan. Orders for professional support services shall include the specific treatment or modalities to be used and their amount, frequency and duration. The therapist and other agency personnel shall participate in developing the plan of care.

(b) The plan(s) of care for acute or episodic illness shall be reviewed by the attending physician and agency personnel involved in the consumer's care as often as the severity of the consumer's condition requires, but at least annually. Plans of care resulting from Comprehensive Nursing Assessment will be reviewed in accordance with the physical status review schedule. Evidence of review by the physician must include the physician's signature and date of the review on the plan of care. A facsimile of the physician's signature is acceptable. Professional staff shall promptly alert the physician to any changes that suggest a need to alter the plan of care.

(3) Drugs and treatments shall be administered by appropriately licensed agency personnel, acting within the scope of their licenses. Orders for drugs and treatments shall be signed and dated by the physician.

(4) Skilled Nursing Services.

(a) When skilled nursing is provided, the services shall be provided by or under the supervision of a registered nurse who has no current disciplinary action against his/her license, in accordance with the plan of care. This person shall be available at all times during operating hours and participate in all activities relevant to the professional support services provided, including the development of qualifications and assignment of personnel.

(Rule 1200-08-34-.06, continued)

(b) The registered nurse's duties shall include but are not limited to the following: make the initial evaluation visit, except in those circumstances where the physician has ordered therapy services as the only skilled service; regularly evaluate the consumer's nursing needs; initiate the plan of care and necessary revisions; provide those services requiring substantial specialized nursing skill; initiate appropriate preventive and rehabilitative nursing procedures; prepare clinical and progress notes; coordinate services; inform the physician and other personnel of changes in the consumer's condition and needs; counsel the consumer and family in meeting nursing and related needs; participate in in-service programs; supervise and teach other nursing personnel. The registered nurse or appropriate agency staff shall initially and periodically evaluate drug interactions, duplicative drug therapy and non-compliance to drug therapy.

(c) The licensed practical nurse shall provide services in accordance with agency policies, which may include but are not limited to the following: prepare clinical and progress notes; assist the physician and/or registered nurse in performing specialized procedures; prepare equipment and materials for treatments; observe aseptic technique as required; and assist the consumer in learning appropriate self-care techniques.

(5) Therapy Services.

(a) All therapy services offered by the agency directly or under arrangement shall be planned, delegated, supervised or provided by a qualified therapist in accordance with the plan of care. A qualified therapist assistant may provide therapy services under the supervision of a qualified therapist in accordance with the plan of care. The therapist shall assist the physician in evaluating the level of function, helping develop the plan of care (revising as necessary), preparing clinical and progress notes, advising and consulting with the family and other agency personnel, and participating in in-service programs.

~~(b) Speech therapy services shall be provided only by a licensed speech language pathologist in good standing or speech language pathologist in the Clinical Fellowship Year under the supervision of a licensed speech language pathologist.~~

(b) Speech therapy services shall be provided only by or under supervision of a qualified speech language pathologist in good standing, or by a person qualified as a Clinical Fellow subject to Tennessee Board of Communications Disorders and Sciences Rule 1370-01-.10.

(6) Performance Improvement.

(a) An agency shall have a committee or mechanism in place to review, at least annually, past and present professional support services including contract services, in accordance with a written plan, to determine their appropriateness and effectiveness and to ascertain that professional policies are followed in providing these services.

(b) The objectives of the review committee shall be:

1. To assist the agency in using its personnel and facilities to meet individual and community needs;

2. To identify and correct deficiencies which undermine quality of care and lead to waste of agency and personnel resources;

(Rule 1200-08-34-.06, continued)

3. To help the agency make critical judgments regarding the quality and quantity of its services through self-examination;

4. To provide opportunities to evaluate the effectiveness of agency policies and when necessary make recommendations to the administration as to controls or changes needed to assure high standards of consumer care;

5. To augment in-service staff education, when applicable;

6. To provide data needed to satisfy state licensure and certification requirements;

7. To establish criteria to measure the effectiveness and efficiency of the professional support services provided to consumers; and

8. To develop a record review system for the agency to evaluate the necessity or appropriateness of the professional support services provided and their effectiveness and efficiency.

(7) Infection Control.

(a) There must be an active performance improvement program for developing guidelines, policies, procedures and techniques for the prevention, control and investigation of infections and communicable diseases.

(b) Formal provisions must be developed to educate and orient all appropriate personnel and/or family members in the practice of aseptic techniques such as handwashing and scrubbing practices, proper hygiene, use of personal protective equipment, dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of consumer care equipment and supplies.

(c) Continuing education shall be provided for all agency consumer care providers on the cause, effect, transmission, prevention and elimination of infections, as evidenced by the ability to verbalize/or demonstrate an understanding of basic techniques.

(d) The agency shall develop policies and procedures for testing a consumer's blood for the presence of the hepatitis B virus and the HIV (AIDS) virus in the event that an employee of the agency, a student studying at the agency or other health care provider rendering services at the agency is exposed to a consumer's blood or other body fluid. The testing shall be performed at no charge to the consumer, and the test results shall be confidential.

(e) The agency and its employees shall adopt and utilize standard precautions (per CDC) for preventing transmission of infections, HIV and communicable diseases.

(f) Precautions shall be taken to prevent the contamination of sterile and clean supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents.

(8) Medical Records.

(a) A medical record containing past and current findings in accordance with accepted professional standards shall be maintained for every consumer receiving professional support services. In addition to the plan of care, the record shall contain: appropriate identifying information; name of physician; all medications and treatments; signed and dated clinical notes. Clinical notes shall be written the day on which service is rendered and incorporated no less often than weekly; copies of summary reports shall be sent to

(Rule 1200-08-34-.06, continued)

the physician; and a discharge summary shall be dated and signed within 7 days of discharge.

(b) All medical records, either in written, electronic, graphic or other acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least ten (10) years after which such records may be destroyed. However, in cases of consumers under mental disability or minority, their complete agency records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the consumer, whichever is longer. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of the contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the agency's policies and procedures, and no record may be destroyed on an individual basis.

(c) Even if the agency discontinues operations, records shall be maintained as mandated by this chapter and the Tennessee Medical Records Act (T.C.A. §§ 68-11-308). If a consumer is transferred to another health care facility or agency, a copy of the record or an abstract shall accompany the consumer when the agency is directly involved in the transfer.

(d) Medical records information shall be safeguarded against loss or unauthorized use. Written procedures shall govern use and removal of records and conditions for release of information. The consumer's written consent shall be required for release of information when the release is not otherwise authorized by law.

(e) For purposes of this rule, the requirements for signature or countersignature by a physician or other person responsible for signing, countersigning or authenticating an entry may be satisfied by the electronic entry by such person of a unique code assigned exclusively to him or her, or by entry of other unique electronic or mechanical symbols, provided that such person has adopted same as his or her signature in accordance with established protocol or rules.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-209, and 68-11-304.* ***Administrative History:*** *Original rule filed January 24, 2003; effective April 9, 2003.*

1200-08-34-.07 RESERVED.

1200-08-34-.08 RESERVED.

1200-08-34-.09 RESERVED.

1200-08-34-.10 INFECTIOUS AND HAZARDOUS WASTE.

(1) Each agency must develop, maintain and implement written policies and procedures for the definition and handling of its infectious and hazardous waste. These policies and procedures must comply with the standards of this rule and all other applicable state and federal regulations.

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

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