



The Tennessee Sunshine Law Passed by the General Assembly in 1974 requires that meetings of state, city and county government bodies be open to the public and that any such governmental body give adequate public notice of such meeting.

TENNESSEE DEPARTMENT OF HEALTH

MEMORANDUM

Date: March 31, 2020

To: Shelley Walker, Director of Communications and Media Relations

From: Wanda E. Hines, Board Administrator

Name of Board or Committee: Board for Licensing Health Care Facilities-Emergency
Called Telephonic Board Meeting
(Call-in Number: 1-888-757-2790 passcode: 516730#)

Date of Meeting: April 1, 2020

Time: 10:00 a.m., Central Daylight Time

Place: Iris Conference Room
665 Mainstream Drive, First Floor
Nashville, TN 37243

Major Item(s) on Agenda: See Attached Agenda

Board members will be participating by telephone.

This memo shall be forwarded from individual programs to the Public Information Office on the 15th day of the preceding month. The Public Information Office will prepare the monthly list of meetings within the Department and have ready for distribution to state media by the 28th day of the preceding month.



LISA PIERCEY, MD, MBA, FAAP
COMMISSIONER

BILL LEE
GOVERNOR

*THE MISSION OF THE TENNESSEE DEPARTMENT OF HEALTH IS TO PROTECT, PROMOTE AND
IMPROVE THE HEALTH AND PROSPERITY OF PEOPLE IN TENNESSEE*

AGENDA

**BOARD FOR LICENSING HEALTH CARE FACILITIES
EMERGENCY CALLED TELEPHONIC BOARD MEETING**

APRIL 1, 2020

**IRIS CONFERENCE ROOM, FIRST FLOOR
10:00 a.m., CDT**

**PLEASE REMEMBER TO SILENCE YOUR ELECTRONIC DEVICES
WHEN THE BOARD IS IN SESSION**

-
1. Call the Meeting to Order and Establish a Quorum.
 2. Legacy Modification to Summary Suspension Order.
 3. Dialyze Direct - Emergency Issuance of License.
 4. Waiver Requests for Various Health Care Facilities Rules.
 5. Other Board Business.
 6. Public Comments.
 7. Adjournment of Meeting.

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
EMERGENCY CALLED TELEPHONIC BOARD MEETING
APRIL 1, 2020

The Board for Licensing Health Care Facilities Emergency Called Telephonic Board Meeting began on April 1, 2020. Dr. René Saunders, chair, called the meeting to order.

A quorum roll call vote was taken:

Mr. Paul Boyd – here
Mr. Robert Breeden – here
Dr. Evelyn Brock – here
Dr. Patsy Carihfield – here
Mr. Joshua Crisp – here
Dr. Jennifer Gordon-Maloney – not here
Mr. Chuck Griffin – here
Dr. Julie Jeter – not here
Dr. Patricia Ketterman – here
Ms. Carissa Lynch – here
Mr. Roger Mynatt – here
Ms. Susan Peach – here
Dr. Sherry Robbins – here
Dr. René Saunders – here
Mr. Jim Shulman – here
Ms. Gina Throneberry – here
Ms. Janet Williford – here
Mr. Bobby Wood – here
Mr. Louis Caputo – here

A quorum was established.

The first item for discussion was Dialyze Direct and the emergency issuance of an End Stage Renal Dialysis license. Mr. Paull was the representative of the facility but was not available on the phone at the time of the discussion. Ann Reed gave Board members details of the request. She spoke to the internal discussion with staff and OGC. Dialyze Direct had sent plans to the Plans Review section resulting in 22 review comments to the facility. Plans Review is still awaiting a response. Mr. Shulman asked if the review comments needed to be answered before approving the license. Ms. Reed stated that the Board could approve the license with the condition of answering the 22 review comments on the project. Caroline Tippens stated that the Board could grant a temporary license with conditions until the October 7, 2020 Board meeting. If the review comments aren't addressed the board will revisit the subject. **Mr. Shulman made a motion to approve the licensure of Dialyze Direct as an End Stage Renal Dialysis Clinic conditioned upon submission of response to Plans Review comments by the October 7, 2020 Board meeting in light of the COVID-19 pandemic; Mr. Boyd seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes

Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – yes
Dr. René Saunders – yes
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Waiver Request(s):

There were multiple rule waiver requests presented to the Board. Following is a discussion of all requests.

Board Policy #82 Amendment – Ms. Reed gave background on this Board Policy and the request to amend the policy. Dan Elrod submitted language to amend rule referenced in Board Policy #82 on temporary structures for Hospitals. The language was as follows to include further definition of temporary structure to include other space in the hospital that does not meet FGI guidelines and the use of space outside a hospital such as a nursing home, rehab facility, or hotel. Ms. Reed requested that facilities notify the Department if they chose to operate under the policy. Mr. Parisher, Facilities Construction Director, informed the Board that surveyors will monitor those facilities. **Mr. Shulman made a motion to amend Board Policy #82 with language submitted; Dr. Robbins seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – yes
Dr. René Saunders – yes

Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Board Policy # 83 – A request to move May trauma center re-designation visits was presented to the Board. The request was placed into Board Policy #83 stating all re-designations scheduled for May 2020 to be completed in six (6) months. **Mr. Caputo made a motion to approve Board Policy # 83; Mr. Shulman seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – not available – phone difficulty
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Assisted Care Living Facility rule 1200-08-25-.08(1)(c) regarding admission or retention of resident that has an active, infectious and reportable disease in a communicable state that requires contact isolation was requested to be waived in light of the COVID-19 pandemic. Discussion ensued concerning the applicability of the Governor’s Executive Orders. **Mr. Shulman made a motion to approve an IG for the rule; Mr. Mynatt seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes

Dr. Patsy Crihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Assisted Care Living Facility rule 1200-08-25-.10(3)(a & b) and Homes for the Aged rule 1200-08-11.08(2) regarding conducting of fire drills per quarter and during sleeping hours was requested to be waived in light of COVID-19. There was discussion regarding this request and the safety of the resident in the event of a fire. **Mr. Crisp made a motion to accept an IG for each rule until the June 2020 Board meeting; Ms. Peach seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Crihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Home Health Agency rule 1200-08-26-.05(2) & (4) regarding written plan of care being established and reviewed by a physician and care under the supervision of a physician and rule 1200-08-26-.05(8) regarding medication or treatment ordered by physician were requested to be waived to allow nurse

practitioners and/or physician assistants to fill the role. There was much discussion on these requests especially given the scope of practice of physicians and advanced practice nurses. A motion was made by Mr. Shulman to approve, but the motion died due to the failure to secure a second.

Home Health Agency rule 1200-08-26-.06(7)(c) regarding supervisory visit by registered nurse to patient's place of residence at least monthly was requested to be waived to allow for alternative means to conduct the supervisory visits. Discussion ensued regarding the CARES Act which was approved on the federal level and the implications of this Act for the states. The Board members expressed concern over the previous discussion of home health agency rule 1200-28-26-.05(2) & (4) and 1200-08-26-.05(8) and the failure for the motion to move forward. **Mr. Mynatt made a motion to suspend the current discussion of the home health agency rule and IG development regarding supervisory visits and to move back to the home health agency rule and IG regarding allowance of nurse practitioners and physician assistants to fill the role of a physician; seconded by Mr. Shulman.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

Further discussion took place regarding Home Health Agency rule 1200-08-26-.05(2) & (4) and Home Health Agency rule 1200-08-26-.05(8). **Mr. Shulman made a motion to approve an IG for each rule; Ms. Williford seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – abstain
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes

Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – abstain
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

The discussion regarding Home Health Agency rule 1200-08-26-.06(7)(c) was once again taken up. No new information was provided to the discussion. **Mr. Shulman made a motion to approve an IG for the rule; Dr. Robbins seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Home Health Agency rule 1200-08-26-.06(3)(b) regarding evidence of review of plan of care must include physician's signature was requested to be waived allowing electronic signature or verbal authorization. **Mr. Shulman made a motion to approve an IG for the rule; Ms. Williford seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes

Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – no
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Hospice rule 1200-08-27-.05(3) & (5) regarding written plan of care being established and reviewed by a physician and care or treatment under the supervision of a physician and rule 1200-08-27-.05(9) regarding medication or treatment ordered by physician was requested to be waived. **Mr. Mynatt made a motion to approve an IG for each rule; Ms. Williford seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – abstain
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – abstain
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Hospice rule 1200-08-27-.06(11)(b) regarding supervisory visit by registered nurse to patient's place of residence at least monthly was requested to be waived to allow for alternative means to conduct the supervisory visits . **Mr. Shulman made a motion to approve an IG for the rule; Ms. Williford seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Crihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Hospital Rule 1200-08-01-.15(19) regarding definition of Critical Access Hospital was requested to be waived to allow bed capacity beyond 25 beds and to allow inpatient care to exceed 96 hours. **Mr. Caputo made a motion to approve an IG for the rule; Mr. Shulman seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Crihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – not available – phone difficulty
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes

Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Hospital Rule 1200-08-01-.05(23) et al regarding exceeding of licensed bed capacity during an emergency was requested to be waived with licensed bed increase to be noticed to the Office of Health Care Facilities. **Mr. Mynatt made a motion to approve an IG for the rule; Mr. Shulman seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – not available – phone difficulty
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

A brief break was taken at this time. Upon return from the break a roll call vote was taken to re-establish a quorum:

Mr. Paul Boyd – here
Mr. Robert Breeden – here
Dr. Evelyn Brock – here
Dr. Patsy Carihfield – here
Mr. Joshua Crisp – here
Dr. Jennifer Gordon-Maloney – not here
Mr. Chuck Griffin – here
Dr. Julie Jeter – not here
Dr. Patricia Ketterman – here
Ms. Carissa Lynch – here
Mr. Roger Mynatt – here
Ms. Susan Peach – not available – phone difficulty

Dr. Sherry Robbins – here
Dr. René Saunders – here
Mr. Jim Shulman – here
Ms. Gina Throneberry – here
Ms. Janet Williford – here
Mr. Bobby Wood – here
Mr. Louis Caputo – here

A quorum was re-established.

Nursing Home Rule 1200-08-06-.05(7) regarding admission in excess of licensed bed capacity was requested to be waived with licensed bed increase to be noticed to the Office of Health Care Facilities. **Mr. Mynatt made a motion to approve an IG for the rule; Mr. Shulman seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – not available – phone difficulty
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

The board agreed that there should be a time limit on the approved Interpretative Guidelines due to the current situation of COVID-19. **Mr. Shulman made a motion to have all approved IG's with a time limit until the June 2020 Board Meeting; Mr. Crisp seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes

Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Consent Order(s):

Prosperity Pointe – ACLF – A complaint survey was conducted resulting in a \$10,000.00 CMP. **Mr. Mynatt made a motion to accept the consent order; Dr. Ketterman seconded.**

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – yes
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Other Board Business:

The last item for discussion was a request to waive Nursing Home Rule 1200-08-06-.15(3). Mr. Puri requested the provision of hiring a qualified individual that haven't been tested or certified longer than

4 months be waived as allowed by CMS. Ms. King, Nurse Aide Program Manager, stated via phone that the Nurse Aide Training programs haven't stopped. **Mr. Mynatt made a motion to approve the waiver as an IG stating length of time a nurse aide may work in facility until name included on Nurse Aide Registry was requested to be waived to allow nurse aides showing competency to work in the facility longer than four (4) months when there name is not on the Nurse Aide Registry temporarily until the June 2020 Board meeting; Mr. Breeden seconded.** Dr. Robbins made an amendment to the motion to prove competency; Vincent Davis, Executive Director of the Office of Health Care Facilities stated that was outside the CMS waiver. Dr. Robbins withdrew her amendment.

A roll call vote was taken:

Mr. Paul Boyd – yes
Mr. Robert Breeden – yes
Dr. Evelyn Brock – yes
Dr. Patsy Carihfield – yes
Mr. Joshua Crisp – yes
Mr. Chuck Griffin – yes
Dr. Patricia Ketterman – yes
Ms. Carissa Lynch – yes
Mr. Roger Mynatt – yes
Ms. Susan Peach – not available – phone difficulty
Dr. Sherry Robbins – yes
Dr. René Saunders – abstain
Mr. Jim Shulman – yes
Ms. Gina Throneberry – yes
Ms. Janet Williford – yes
Mr. Bobby Wood – yes
Mr. Louis Caputo – yes

The motion was approved.

Dr. Saunders adjourned the meeting.