

**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) Administrator. A person currently licensed as such by the Tennessee Board of Examiners for Nursing Home Administrators.
- (2) Adult. An individual who has capacity and is at least 18 years of age.
- (3) Advance Directive. An individual instruction or a written statement relating to the subsequent provision of health care for the individual, including, but not limited to, a living will or a durable power of attorney for health care.
- (4) Agent. An individual designated in an advance directive for health care to make a health care decision for the individual granting the power.
- (5) Board. The Tennessee Board for Licensing Health Care Facilities.
- (6) Capacity. An individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision. These regulations do not affect the right of a resident to make health care decisions while having the capacity to do so. A resident shall be presumed to have capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Any person who challenges the capacity of a resident shall have the burden of proving lack of capacity.
- (7) Cardiopulmonary Resuscitation (CPR). The administering of any means or device to restore or support cardiopulmonary functions in a resident, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilations or respirations, defibrillation, the administration of drugs and/or chemical agents intended to restore cardiac and/or respiratory functions in a resident where cardiac or respiratory arrest has occurred or is believed to be imminent.
- (8) Certified Nurse Aide or Certified Nursing Assistant. An individual who has successfully completed an approved nursing assistant training program and is registered with the department.
- (9) Commissioner. The Commissioner of the Tennessee Department of Health or his or her authorized representative.

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- (10) Competent. A resident who has capacity.
- (11) Corrective Action Plan/Report. A report filed with the department by the facility after reporting an unusual event. The report must consist of the following:
 - (a) the action(s) implemented to prevent the reoccurrence of the unusual event,
 - (b) the time frames for the action(s) to be implemented,
 - (c) the person(s) designated to implement and monitor the action(s), and
 - (d) the strategies for the measurements of effectiveness to be established.
- (12) Department. The Tennessee Department of Health.
- (13) Designated Physician. A physician designated by an individual or the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes such responsibility.
- (14) Dietitian. A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners. Persons exempt from licensure shall be registered with the American Dietetics Association pursuant to T.C.A. § 63-25-104.
- (15) Director of Nursing (DON). A Registered Nurse employed full time in a nursing home who satisfies the responsibilities set forth in this chapter.
- (16) Do Not Resuscitate (DNR) Order. An order entered by the resident's treating physician in the resident's medical record which states that in the event the resident suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted. The order may contain limiting language to allow only certain types of cardiopulmonary resuscitation to the exclusion of other types of cardiopulmonary resuscitation.
- (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.
- (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.
- (19) Guardian. A judicially appointed guardian or conservator having authority to make a health care decision for an individual.
- (20) Hazardous Waste. Materials whose handling, use, storage, and disposal are governed by local, state or federal regulations.
- (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).
- (22) Health Care Decision. Consent, refusal of consent or withdrawal of consent to health care.
- (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

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health care decision-making authority, the resident's surrogate as determined pursuant to Rule 1200-08-06-.13 or T.C.A. §33-3-220, the designated physician pursuant to these Rules or in the case of a minor child, the person having custody or legal guardianship.

- (24) Health Care Institution. A health care institution as defined in T.C.A. § 68-11-1602.
- (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.
- (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.
- (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.
- (28) Incompetent. A resident who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.
- (29) Individual instruction. An individual's direction concerning a health care decision for the individual.
- (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.
- (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.
- (32) Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.
- (33) Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.
- (34) Life Threatening Or Serious Injury. Injury requiring the patient to undergo significant additional diagnostic or treatment measures.
- (35) Medical Director. A licensed physician employed by the nursing home to be responsible for medical care in the facility.
- (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.
- (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.

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

- (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.
- (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.
- (40) NFPA. The National Fire Protection Association.
- (41) 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.
- (42) Nursing Personnel. Licensed nurses and certified nurse aides who provide nursing care.
- (43) Occupational Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.
- (44) 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.
- (45) Person. An individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (46) Personally Informing. A communication by any effective means from the resident directly to a health care provider.
- (47) Pharmacist. A person currently licensed as such by the Tennessee Board of Pharmacy.
- (48) Physical Therapist. A person currently licensed as such by the Tennessee Board of Occupational and Physical Therapy Examiners.
- (49) Physician. An individual authorized to practice medicine or osteopathy under Tennessee Code Annotated, Title 63, Chapters 6 or 9.
- (50) Podiatrist. A person currently licensed as such by the Tennessee Board of Registration in Podiatry.
- (51) Power of Attorney for Health Care. The designation of an agent to make health care decisions for the individual granting the power under T.C.A. Title 34, Chapter 6, Part 2.
- (52) 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.
- (53) Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel,

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- providers, or entities acting within the usual course of their professions, and other emergency responders.
- (54) 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.
- (55) Registered Nurse. A person currently licensed as such by the Tennessee Board of Nursing.
- (56) 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.
- (57) Secured Unit. A facility or distinct part of a facility where residents are intentionally denied egress by any means.
- (58) Shall or Must. Compliance is mandatory.
- (59) Social Worker. In a facility with more than 120 beds a qualified social worker is an individual with:
- (a) A bachelor's degree in social work or a bachelor's degree in a human services field including but not limited to sociology, special education, rehabilitation counseling, and psychology; and,
 - (b) One year of supervised social work experience in a health care setting working directly with individuals.
- (60) Speech Therapist. A person currently licensed as such by the Tennessee Board of Communication Disorders and Sciences.
- (61) 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.
- (62) Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board.
- (63) 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.
- (64) Surrogate. An individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident.
- (65) Survey. An on-site examination by the department to determine the quality of care and/or services provided.
- (66) 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.
- (67) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the resident.

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- (68) **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."
- (69) **Universal Do Not Resuscitate Order.** A written order that applies regardless of the treatment setting and that is signed by the patient's physician which states that in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted. The Physician Order for Scope of Treatment (POST) form promulgated by the Board for Licensing Health Care Facilities as a mandatory form shall serve as the Universal DNR according to these rules.
- (70) **Unusual Event.** The abuse of a patient or an unexpected occurrence or accident that results in death, life threatening or serious injury to a patient that is not related to a natural course of the patient's illness or underlying condition.
- (71) **Unusual Event Report.** A report form designated by the department to be used for reporting an unusual event.

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.

1200-08-06-.02 LICENSING PROCEDURES.

- (1) No person, partnership, association, corporation, or any state, county or local governmental unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any nursing home without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the nursing home.
- (2) In order to make application for a license:
 - (a) The applicant shall submit an application on a form provided by the department along with a copy of the Certificate of Need (CON) issued by the Tennessee Health Services and Development Agency (HSDA). Any condition placed on the CON will also be placed on the license.
 - (b) Each applicant for a license shall pay an annual license fee based on the number of nursing home beds. The fee must be submitted with the application and is not refundable.
 - (c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Residents shall not be admitted to the nursing home until a license has been issued. Applicants shall not hold themselves out to the public as being a nursing home until the license has been issued. A license shall not be issued until the facility is in substantial

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compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

- (d) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.
 - (e) The applicant shall allow the nursing home to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.
- (3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.
- (a) For the purpose of licensing, the licensee of a nursing home has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the nursing home's operation is transferred.
 - (b) A change of ownership occurs whenever there is a change in the legal structure by which the nursing home is owned and operated.
 - (c) Transactions constituting a change of ownership include, but are not limited to, the following:
 - 1. Transfer of the facility's legal title;
 - 2. Lease of the facility's operations;
 - 3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility.
 - 4. One partnership is replaced by another through the removal, addition or substitution of a partner;
 - 5. Removal of the general partner or general partners, if the facility is owned by a limited partnership;
 - 6. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;
 - 7. The consolidation of a corporate facility owner with one or more corporations; or,
 - 8. Transfers between levels of government.
 - (d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:
 - 1. Changes in the membership of a corporate board of directors or board of trustees;

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2. Two (2) or more corporations merge and the originally-licensed corporation survives;
 3. Changes in the membership of a non-profit corporation;
 4. Transfers between departments of the same level of government; or,
 5. Corporate stock transfers or sales, even when a controlling interest.
- (e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.
- (f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.
- (4) Each nursing home, except those operated by the U.S. Government or the State of Tennessee, making application for license under this chapter shall pay annually to the department a fee based on the number of nursing home beds, as follows:
- | | |
|--------------------------------|-------------|
| (a) Less than 25 beds | \$ 800.00 |
| (b) 25 to 49 beds, inclusive | \$ 1,000.00 |
| (c) 50 to 74 beds, inclusive | \$ 1,200.00 |
| (d) 75 to 99 beds, inclusive | \$ 1,400.00 |
| (e) 100 to 124 beds, inclusive | \$ 1,600.00 |
| (f) 125 to 149 beds, inclusive | \$ 1,800.00 |
| (g) 150 to 174 beds, inclusive | \$ 2,000.00 |
| (h) 175 to 199 beds, inclusive | \$ 2,200.00 |

For nursing homes of two hundred (200) beds or more the fee shall be two thousand four hundred dollars (\$2,400.00) plus two hundred dollars (\$200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable. When additional beds are licensed, the licensing procedures for new facilities must be followed and the difference between the fee previously paid and the fee for the new bed capacity, if any, must be paid.

- (5) Renewal.
- (a) In order to renew a license, each nursing home shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.
 - (b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by

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paying, in addition to the renewal fee, a late penalty of one hundred dollars (\$100) per month for each month or fraction of a month that renewal is late.

- (c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:
 - 1. a completed application for licensure;
 - 2. the license fee provided in rule 1200-08-06-.02(4); and
 - 3. any other information required by the Health Services and Development Agency.
- (d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-209(a)(1), 68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009]. **Administrative History:** Original rules 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 December 30, 1986; effective February 13, 1987. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed September 21, 2005; effective December 5, 2005. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendments filed September 24, 2009; effective December 23, 2009.

1200-08-06-.03 DISCIPLINARY PROCEDURES.

- (1) The board may suspend or revoke a license for:
 - (a) Violation of federal statutes or rules;
 - (b) Violation of state statutes or the rules as set forth in this chapter;
 - (c) Permitting, aiding or abetting the commission of any illegal act in the nursing home;
 - (d) Conduct or practice found by the board to be detrimental to the health, safety, or welfare of the residents of the nursing home; and,
 - (e) Failure to renew the license.
- (2) The board may consider all factors which it deems relevant, including but not limited to the following, when determining sanctions:
 - (a) The degree of sanctions necessary to ensure immediate and continued compliance;
 - (b) The character and degree of impact of the violation on the health, safety and welfare of the residents in the facility;
 - (c) The conduct of the facility in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and,
 - (d) Any prior violations by the facility of statutes, rules or orders of the commissioner or the board.

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- (3) The Board shall have the authority to place a facility on probation. To be considered for probation, a facility must have had at least two (2) separate substantiated complaint investigation surveys within six (6) months, where each survey had at least one deficiency cited at the level of substandard quality of care or immediate jeopardy, as those terms are defined at 42 CFR 488.301. None of the surveys can have been initiated by an unusual event or incident self reported by the facility.
 - (a) If a facility meets the criteria for probation, the board may hold a hearing at its next regularly scheduled meeting to determine if the facility should be placed on probation. Prior to initiating such a hearing, the board shall provide notice to the facility detailing what specific non-compliance the board had identified that the facility must respond to at the probation hearing.
 - (b) Prior to imposing probation, the board may consider and address in its findings all factors which it deems relevant, including, but not limited to, the following:
 1. What degree of sanctions is necessary to ensure immediate and continued compliance; and
 2. Whether the non-compliance was an unintentional error or omission, or was not fully within the control of the facility; and
 3. Whether the nursing home recognized the non-compliance and took steps to correct the identified issues, including whether the facility notified the department of the non-compliance either voluntarily or as required by state law or regulations; and
 4. The character and degree of impact of the non-compliance on the health, safety and welfare of the patient or patients in the facility; and
 5. The conduct of the facility in taking all feasible steps or procedures necessary or appropriate to comply or correct the non-compliance; and
 6. The facility's prior history of compliance or non-compliance.
- (4) If the Board places a facility on probation, the facility shall detail in a plan of correction those specific actions, which when followed, will correct the non-compliance identified by the board.
- (5) During the period of probation, the facility must make reports on a schedule determined by the board. These reports must demonstrate and explain to the board how the facility is implementing the actions identified in its plan of correction. In making such reports, the board shall not require the facility to disclose any information protected as privileged and confidential under any state or federal law or regulation.
- (6) The Board is authorized at any time during the probation to remove the probational status of the facility's license, based upon information presented to it showing that the conditions identified by the board have been corrected and are reasonably likely to remain corrected.
- (7) The Board must rescind the probational status of the facility if it determines that the facility has complied with its plan of correction as submitted and approved by the board, unless the facility has additional non-compliance that warrants an additional term of probation as defined in T.C.A. §68-11-207(e)(1).
- (8) A single period of probation for a facility shall not extend beyond twelve (12) months. If the board determines during or at the end of the probation that the facility is not taking steps to

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correct non-compliance or otherwise not responding in good faith pursuant to the plan of correction, the board may take any additional action as authorized by law.

- (9) The hearing to place a facility on probation and judicial review of the board's decision shall be in accordance with the Uniform Administrative Procedures Act.
- (10) When a nursing home is found by the department to have committed a violation of this chapter, the department will issue to the facility a statement of deficiencies. Within ten (10) days of the receipt of the statement of deficiencies, the facility must return a plan of correction indicating the following:
 - (a) How the deficiency will be corrected;
 - (b) The date upon which each deficiency will be corrected;
 - (c) What measures or systemic changes will be put in place to ensure that the deficient practice does not recur; and,
 - (d) How the corrective action will be monitored to ensure that the deficient practice does not recur.
- (11) Either failure to submit a plan of correction in a timely manner or a finding by the department that the plan of correction is unacceptable shall subject the nursing home's license to possible disciplinary action.
- (12) Whenever the commissioner exercises the authority to suspend the admission of any new resident(s) to the nursing home because of detrimental conditions, as provided by T.C.A. § 68-11-207(b), the nursing home shall post a copy of the commissioner's order upon the public entrance doors of the facility and prominently display it there for so long as it remains effective. During the suspension of admissions, the nursing home shall inform any person who inquires about the admission of a new resident of the provisions of the order and make a copy of the order available.
- (13) Any licensee or applicant for a license, aggrieved by a decision or action of the department or board, pursuant to this chapter, may request a hearing before the board. The proceedings and judicial review of the board's decision shall be in accordance with the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-101, et seq.
- (14) Reconsideration and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-04-01-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-219, 4-5-312, 4-5-316, 4-5-317, 68-11-202, 68-11-204, and 68-11-206 through 68-11-209. **Administrative History:** Original rule filed 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 December 30, 1986; effective February 13, 1987. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed May 24, 2004; August 7, 2004. Amendment filed March 1, 2007; effective May 15, 2007.

1200-08-06-.04 ADMINISTRATION.

- (1) The nursing home shall have a full-time (working at least 32 hours per week) administrator licensed in Tennessee, who shall not function as the director of nursing. Any change of administrators shall be reported in writing to the department within fifteen (15) days. The administrator shall designate in writing an individual to act in his/her absence in order to provide the nursing home with administrative direction at all times. The administrator shall

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- assure the provision of appropriate fiscal resources and personnel required to meet the needs of the residents.
- (2) The hospital administrator may serve as the administrator of a hospital-based nursing home provided that he/she is a Tennessee licensed nursing home administrator, the facilities are located on the same campus, and the surveys do not reflect substandard care.
 - (3) Any agreement to manage a nursing home must be reported in writing to the department within fifteen (15) days of its implementation.
 - (4) Upon the unexpected loss of the facility administrator, the facility shall proceed according to the following provisions:
 - (a) The term "unexpected loss" means the absence of a nursing home administrator due to serious illness or incapacity, unplanned hospitalization, death, resignation with less than thirty (30) days notice or unplanned termination.
 - (b) The facility must notify the department within twenty-four (24) hours after notice of the unexpected loss of the administrator. Notification to the department shall identify an individual to be responsible for administration of the facility for the immediate future not to exceed thirty (30) days. This responsible individual need not be licensed as an administrator and may be the facility's director of nursing.
 - (c) Within seven (7) days of notice of the unexpected loss, the facility must request a waiver of the appropriate regulations from the board.
 - (d) On or before the expiration of thirty (30) days after notice of the unexpected loss, the facility shall appoint a temporary administrator to serve until either a permanent administrator is employed or the request for a waiver is considered by the board, whichever occurs first. The temporary administrator shall be any of the following:
 1. A full-time administrator licensed in Tennessee or any other state;
 2. One (1) or more part-time administrators licensed in Tennessee. Part-time shall not be less than twenty (20) hours per week; or,
 3. A full-time candidate for licensure as a Tennessee administrator who has completed the required training and the application process. Such candidate shall be scheduled for the next licensure exam and is eligible for the continued administrator role only with the successful completion of that exam.
 - (e) The procedures set forth above shall be followed until the next regularly scheduled meeting of the board in which the board considers the facility's application for a waiver. After reviewing the circumstances, the board may grant, refuse or condition a waiver as necessary to protect the health, safety and welfare of the residents in the facility.
 - (f) Any facility which follows these procedures shall not be subject to a civil penalty for absence of an administrator at any time preceding the board's consideration of the facility's request for a waiver.
 - (5) The facility shall make reasonable efforts to safeguard personal property and promptly investigate complaints of such loss. A record shall be prepared of all clothing, personal possessions and money brought by the resident to the nursing home at the time of admission. The record shall be filled out in duplicate. One copy of the record shall be given to the resident or the resident's representative and the original shall be maintained in the

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- nursing home record. This record shall be updated as additional personal property is brought to the facility.
- (6) The facility shall maintain a surety bond on all resident funds held in trust. Such surety bonds shall be sufficient to cover the amount of such funds. The surety bond shall be an agreement between the company issuing the bond and the nursing home and shall remain in the possession of the nursing home.
 - (7) If the facility holds resident funds, such funds shall be kept in an account separate from the facility's funds. Resident funds shall not be used by the facility. The facility shall maintain and allow each resident access to a written record of all financial arrangements and transactions involving the individual resident's funds. The facility shall provide each resident or his/her representative with a written itemized statement at least quarterly of all financial transactions involving the resident's funds.
 - (8) Within thirty (30) days of a resident's death, the facility shall provide an accounting of the resident's funds held by the facility and an inventory of the resident's personal property held by the facility to the resident's executor, administrator or other person authorized by law to receive the decedent's property. The facility shall obtain a signed receipt from any person to whom the decedent's property is transferred.
 - (9) Upon the sale of the facility, the seller shall provide written verification that all the resident's funds and property have been transferred and shall obtain a signed receipt from the new owner. Upon receipt, the buyer shall provide, to the residents, an accounting of funds and property held on their behalf.
 - (10) When licensure is applicable for a particular job, verification of the current license must be included as a part of the personnel file. Each personnel file shall contain accurate information as to the education, training, experience and personnel background of the employee. Documentation that references were verified shall be on file. Documentation that all appropriate abuse registries have been checked shall be on file. Adequate medical screenings to exclude communicable disease shall be required of each employee.
 - (11) All nursing homes shall initiate a criminal background check on any person who is employed by the facility in a position which involves providing direct care to a resident or patient, prior to or within seven (7) days of employment.
 - (a) Any person who applies for employment in a position which involves providing direct patient care to a resident in such a facility shall consent to:
 1. Provide past work and personal references to be checked by the nursing home; and/or
 2. Agree to release and use of any and all information and investigative records necessary for the purpose of verifying whether the individual has been convicted of a criminal offense in the state of Tennessee, to either the nursing home or its agent, to any agency that contracts with the state of Tennessee, to any law enforcement agency, or to any other legally authorized entity; and/or
 3. Supply a fingerprint sample and submit to a state criminal history records check to be conducted by the Tennessee Bureau of Investigations, or a state and federal criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation; and/or

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4. Release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.
 - (b) A nursing home shall not disclose criminal background check information obtained to a person who is not involved in evaluating a person's employment, except as required or permitted by state or federal law.
 - (c) Any costs incurred by the Tennessee Bureau of Investigation, professional background screening organization, law enforcement agency, or other legally authorized entity, in conducting such investigations of such applicants may be paid by the nursing home, or any agency that contracts with the state of Tennessee requesting such investigation and information, or the individual who seeks employment or is employed. Payment of such costs to the Tennessee Bureau of Investigation are to be made in accordance with T.C.A. §§38-6-103 and 38-6-109. The costs of conducting criminal background checks shall be an allowable cost under the state Medicaid program, if paid for by the nursing home.
 - (d) Criminal background checks are also required by any organization, company, or agency that provides or arranges for the supply of direct care staff to any nursing home licensed in the state of Tennessee. Such company, organization, or agency shall be responsible for initiating a criminal background check on any person hired by that entity for the purpose of working in a nursing home, and shall be required to report the results of the criminal background check to any facility in which the organization arranges the employee to work, upon request by a facility.
 - (e) A nursing home that declines to employ or terminates a person based upon criminal background information provided to the facility shall be immune from suit by or on behalf of that person for the termination of or the refusal to employ that person.
- (12) Whenever the rules of this chapter require that a licensee develop a written policy, plan, procedure, technique, or system concerning a subject, the licensee shall develop the required policy, maintain it and adhere to its provisions. A nursing home which violates a required policy also violates the rule establishing the requirement.
- (13) Policies and procedures shall be consistent with professionally recognized standards of practice.
- (14) No nursing home shall retaliate against or, in any manner, discriminate against any person because of a complaint made in good faith and without malice to the board, the department, the Department of Human Services Adult Protective Services, the long term care ombudsman, the Comptroller of the State Treasury, or any government agency. A nursing home shall neither retaliate, nor discriminate, because of information lawfully provided to these authorities, because of a person's cooperation with them, or because a person is subpoenaed to testify at a hearing involving one of these authorities.
- (15) Each nursing home shall adopt safety policies for the protection of residents from accident and injury.
- (16) Each nursing home shall post whether they have liability insurance, the identity of their primary insurance carrier, and if self-insured, the corporate entity responsible for payment of any claims. It shall be posted on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height and displayed at the main public entrance.

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- (17) Documentation pertaining to the payment agreement between the nursing home and the resident shall be completed prior to admission. A copy of the documentation shall be given to the resident and the original shall be maintained in the nursing home records.
- (18) The nursing home shall ensure a framework for addressing issues related to care at the end of life.
- (19) The nursing home shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.
- (20) The nursing home shall carry out the following functions, all of which shall be documented in a written medical equipment management plan:
 - (a) Develop and maintain a current itemized inventory of medical equipment used in the facility, that is owned or leased by the operator of the facility;
 - (b) Develop and maintain a schedule for the maintenance, inspection and testing of medical equipment according to manufacturers' recommendations or other generally accepted standards. The schedule shall include the date and time such maintenance, inspection and testing was actually performed, and the name of the individual who performed such tasks; and
 - (c) Ensure maintenance, inspection and testing were conducted by facility personnel adequately trained in such procedures or by a contractor qualified to perform such procedures.
- (21) All health care facilities licensed pursuant to T.C.A. §68-11-201, et. seq. shall post on a sign no smaller than eight and one-half inches (8½") in width and eleven inches (11") in height the following in the main public entrance:
 - (a) a statement that any person, regardless of age, who may be the victim of domestic violence may call the nationwide domestic violence hotline, with that number printed in boldface type, for immediate assistance.
- (22) "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted at every entrance.
- (23) Residents of the facility are exempt from the smoking prohibition. The resident smoking practices shall be governed by the policies and procedures established by the facility. Smoke from such areas shall not infiltrate into the areas where smoking is prohibited.
- (24) The facility shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.

Authority: T.C.A. §§4-5-202, 4-5-204, 39-17-1803, 39-17-1804, 39-17-1805, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-225, 68-11-254, 68-11-256, 68-11-257, 68-11-268, 68-11-906, 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. Amendment filed May 24, 1985; effective June 23, 1985. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed May 10, 1990; effective June 24, 1990. Amendment filed March 9, 1992; effective April 23, 1992. Amendment filed March 10, 1995; effective May 24, 1995. Amendment filed June 13, 1997; effective August 27, 1997. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed May 24, 2004; effective August 7, 2004. Amendment filed February 23, 2007; effective May 9, 2007.

(Rule 1200-08-06-.04, continued)

Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed February 22, 2010; effective May 23, 2010.

1200-08-06-.05 ADMISSIONS, DISCHARGES, AND TRANSFERS.

- (1) Every person admitted for care or treatment shall be under the supervision of a physician who holds a license in good standing to practice in Tennessee. The name of the resident's attending physician shall be recorded in the resident's medical record. The nursing home shall not admit the following types of residents:
 - (a) Persons who pose a clearly documented danger to themselves or to other residents in the nursing home.
 - (b) Children under fourteen (14) years of age, except when the department has approved the admission of a specific child.
 - (c) Persons for whom the nursing home is not capable of providing the care ordered by the attending physician. Documentation of the reason(s) for refusal of the admission shall be maintained.
- (2) A diagnosis must be entered in the admission records of the nursing home for every person admitted for care or treatment.
- (3) Prior to the admission of a resident to a nursing home or prior to the execution of a contract for the care of a resident in a nursing home (whichever occurs first), each nursing home shall disclose in writing to the resident or to the resident's guardian, conservator or representative, if any, whether the facility has liability insurance and the identity of the primary insurance carrier. If the facility is self-insured, their statement shall reflect that fact and indicate the corporate entity responsible for payment of any claims.
- (4) 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.
- (5) Facilities utilizing secured units must be able to provide survey staff with twelve (12) months of the following performance information specific to the secured unit and its residents:
 - (a) Documentation that each secured resident has been evaluated by an interdisciplinary team consisting of at least a physician, a social worker, a registered nurse, and a family member (or patient care advocate) prior to admittance to the unit;
 - (b) Ongoing and up-to-date documentation of quarterly review by each resident's interdisciplinary team as to the appropriateness of placement in the secured unit;
 - (c) A current listing of the number of deaths and hospitalizations with diagnoses that have occurred on the unit;
 - (d) A current listing of all unusual incidents and/or complications on the unit;
 - (e) An up-to-date staffing pattern and staff ratios for the unit is recorded on a daily basis. The staffing pattern must ensure that there is a minimum of one (1) attendant, awake, on duty, and physically located on the unit twenty-four (24) hours per day, seven (7) days per week at all times;
 - (f) A formulated calendar of daily group activities scheduled including a resident attendance record for the previous three (3) months;

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- (g) An up-to-date listing of any incidences of decubitus and/or nosocomial infections, including resident identifiers; and,
- (h) Documentation showing that 100% of the staff working on the unit receives and has received annual in-service training which shall include, but not be limited to the following subject areas:
 - 1. Basic facts about the causes, progression and management of Alzheimer's Disease and related disorders;
 - 2. Dealing with dysfunctional behavior and catastrophic reactions in the residents;
 - 3. Identifying and alleviating safety risks to the resident;
 - 4. Providing assistance in the activities of daily living for the resident; and,
 - 5. Communicating with families and other persons interested in the resident.
- (6) The facility 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 facility. The facility shall protect the civil rights of residents under the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.
- (7) Any admission in excess of the licensed bed capacity is prohibited except when an emergency admission is directed by the department.
- (8) No resident shall be discharged 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. Each nursing home shall establish a policy for handling patients who wish to leave against medical advice.
- (9) When a resident is discharged, a brief description of the significant findings and events of the resident's stay in the nursing home, the condition on discharge and the recommendation and arrangement for future care, if any, shall be provided.
- (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.

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- (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.
 - (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.

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

- (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;
 - 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.

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

- (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.
 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;

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

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;
 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.

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

- (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:

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

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,
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:

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

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.
 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.

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

- (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.
- (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.

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

- (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;
 - 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

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

(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;
 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,

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

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:
 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.

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

- (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 by 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 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. A graduate of a state-approved course that provided ninety (90) or more hours of classroom instruction in food service supervision and who has experience as a food service supervisor in a health care institution with consultation from a qualified dietitian.

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

- (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 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.

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

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

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

- (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.
- (e) Therapy services shall be coordinated with the nursing service and made a part of the resident care plan.
- (f) Sufficient staff shall be made available to provide the service offered.

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

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,
 - (b) The need for admission must be determined by an interdisciplinary team consisting at least of a physician experienced in the management of residents with Alzheimer's Disease and related disorders, a social worker, a registered nurse and a relative of the resident or a resident care advocate.
- (2) Special care units shall be separated from the remaining portion of the nursing home by a locked door and must have extraordinary and acceptable fire safety features and policies which ensure the well being and protection of the residents.
- (3) The residents must have direct access to a secured, therapeutic outdoor area. This outdoor area shall be designed and maintained to facilitate emergency evacuation.
- (4) There must be limited access to the designated unit so that visitors and staff do not pass through the unit to get to other areas of the nursing home.
- (5) Each unit must contain a designated dining/activity area which shall accommodate 100% seating for residents.
- (6) Corridors or open spaces shall be designed to facilitate ambulation and activity, and shall have an unobstructed view from the central working or nurses' station.

(Rule 1200-08-06-.07, continued)

- (7) Drinking facilities shall be provided in the central working area or nurses' station and in the primary activities areas. Glass front refrigerators may be used.
- (8) The unit shall be designed, equipped and maintained to promote positive resident response through the use of:
 - (a) Reduced-glare lighting, wall and floor coverings, and materials and decorations conducive to appropriate sensory and visual stimulation; and,
 - (b) Meaningful wandering space shall be provided that encourages physical exercise and ensures that residents will not become frustrated upon reaching dead-ends.
- (9) The designated units shall provide a minimum of 3.5 hours of direct care to each resident every day including .75 hours of licensed nursing personnel time. Direct care shall not be limited to nursing personnel time and may include direct care provided by dietary employees, social workers, administrator, therapists and other care givers, including volunteers.
- (10) In addition to the classroom instruction required in the nurse aide training program, each nurse aide assigned to the unit shall have forty (40) hours of classroom instruction which shall include but not be limited to the following subject areas:
 - (a) Basic facts about the causes, progression and management of Alzheimer's Disease and related disorders;
 - (b) Dealing with dysfunctional behavior and catastrophic reactions in the resident;
 - (c) Identifying and alleviating safety risks to the resident;
 - (d) Providing assistance in the activities of daily living for the resident; and,
 - (e) Communicating with families and other persons interested in the resident.
- (11) Each resident shall have a treatment plan developed, periodically reviewed and implemented by an interdisciplinary treatment team consisting at least of a physician experienced in the management of residents with Alzheimer's Disease and related disorders, a registered nurse, a social worker, an activity coordinator and a relative of the resident or a resident care advocate.
- (12) A protocol for identifying and alleviating job related stress among staff on the special care unit must be developed and carried out.
- (13) The staff of the unit shall organize a support group for families of residents which meets at least quarterly for the purpose of:
 - (a) Providing ongoing education for families;
 - (b) Permitting families to give advice about the operation of the unit;
 - (c) Alleviating stress in family members; and
 - (d) Resolving special problems relating to the residents in the unit.

Authority: T.C.A. §§4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-1404.
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.

1200-08-06-.08 BUILDING STANDARDS.

- (1) The nursing home must be constructed, arranged, and maintained to ensure the safety of the resident.
- (2) The condition of the physical plant and the overall nursing home environment must be developed and maintained in such a manner that the safety and well-being of residents are assured.
- (3) No new nursing home shall hereafter be constructed, nor shall major alterations be made to existing nursing homes, or change in nursing home type be made without the prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new nursing home is licensed or before any alteration or expansion of a licensed nursing home can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer.
- (4) After the application and licensure fees have been submitted, the building construction plans must be submitted to the department. All new facilities shall conform to the current addition of the Standard Building Code, the National Fire Protection Code (NFPA), the National Electrical Code and the AIA Guidelines for Design and Construction of Hospital and Health Care Facilities, and the U.S Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. When referring to height, area or construction type, the Standard Building Code shall prevail. All new and existing facilities are subject to the requirements of the Americans with Disabilities Act (A.D.A.). Where there are conflicts between requirements in the above listed codes and regulations and provisions of this chapter, the most restrictive shall apply.
- (5) The codes in effect at the time of submittal of plans and specifications, as defined by these regulations shall be the codes to be used throughout the project.
- (6) Review of plans and specifications shall be acknowledged in writing with copies sent to the architect and the owner, manager or other executive of the institution. The distribution of such review may be modified at the discretion of the department.
- (7) All construction shall be executed in accordance with the approved plans and specifications.
- (8) All new construction and renovations to nursing homes, other than minor alterations not affecting fire and life safety or functional issues, shall be performed in accordance with the specific requirements of these regulations governing new construction in nursing homes, including the submission of phased construction plans and the final drawings and the specifications to each.
- (9) In the event submitted materials do not appear to satisfactorily comply with 1200-08-06-.08 (4) the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (10) Notice of satisfactory review from the department constitutes compliance with this requirement if construction begins within one hundred eighty (180) days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from

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

- the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (11) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
 - (12) Prior to final inspection, a CD Rom disc, in TIF or DMG format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
 - (13) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ($1/8" = 1'$), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. These plans shall be prepared by an architect or engineer licensed to practice in the State of Tennessee. The plans shall contain a certificate signed by the architect or engineer that to the best of his or her knowledge or belief the plans conform to all applicable codes.
 - (a) Two (2) sets of plans shall be forwarded to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the understanding that such work is at the owner's risk and without assurance that final approval of final plans and specifications shall be granted. Final plans and specifications shall be submitted for review and approval. Final approval must be received before proceeding beyond foundation work.
 - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
 - (14) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
 - (15) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
 - (16) Architectural drawings shall include:
 - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
 - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
 - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
 - (d) The elevation of each facade;
 - (e) The typical sections throughout the building;
 - (f) The schedule of finishes;
 - (g) The schedule of doors and windows;

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

- (h) Roof plans;
 - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
 - (j) Code analysis.
- (17) Structural drawings shall include:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
 - (b) Schedules of beams, girders and columns; and
 - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (18) Mechanical drawings shall include:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
 - (b) Water supply, sewerage and HVAC piping systems;
 - (c) Pressure relationships shall be shown on all floor plans;
 - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
 - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and,
 - (f) Color coding to show clearly supply, return and exhaust systems.
- (19) Electrical drawings shall include:
- (a) A certification that all electrical work and equipment is in compliance with all applicable local codes and laws, and that all materials are currently listed by recognized testing laboratories;
 - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
 - (c) The electrical system shall comply with applicable codes, and shall include:
 - 1. The nurses call system;
 - 2. The paging system;
 - 3. The fire alarm system; and
 - 4. The emergency power system including automatic services as defined by the codes.
 - (d) Color coding to show all items on emergency power.

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

- (20) Sprinkler drawings shall include:
- (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
 - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
 - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (21) No system of water supply, plumbing, sewage, garbage or refuse disposal shall be installed nor shall any existing system be materially altered or extended until complete plans and specifications for the installation, alteration or extension have been submitted to the department and show that all applicable codes have been met and necessary approval has been obtained.
- (a) Before the facility is used, the water supply system shall be approved by the Tennessee Department of Environment and Conservation.
 - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
- (22) The following alarms are required and shall be monitored twenty-four (24) hours per day:
- (a) Fire alarms;
 - (b) Generators; and
 - (c) Medical gas alarms.
- (23) A negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.
- (24) Each nursing home shall ensure that an emergency keyed lock box is installed next to each bank of functioning elevators located on the main level. Such lock boxes shall be permanently mounted seventy-two inches (72") from the floor to the center of the box, be operable by a universal key no matter where such box is located, and shall contain only fire service keys and drop keys to the appropriate elevators.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-57, 68-11-261. **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 July 3, 1984; effective August 1, 1984. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed February 11, 1992; effective March 27, 1992. Amendment filed January 6, 1995; effective March 22, 1995. Amendment filed June 13, 1997; effective August 27, 1997. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed February 18, 2003; effective May 4, 2003. Repeal and new rule filed September 21, 2005; effective December 5, 2005. Amendment filed February 23, 2007; effective May 9, 2007.

1200-08-06-.09 LIFE SAFETY.

- (1) Any nursing home which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The nursing home shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. Fire drills shall be held at least quarterly for each work shift for nursing home personnel in each separate patient-occupied nursing home building. There shall be a written report documenting the evaluation of each drill and the action recommended or taken for any deficiencies found. Records which document and evaluate these drills must be maintained for at least three (3) years. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Initial reports by the facility may omit the name(s) of resident(s) and parties involved, however, should the department find the identities of such persons to be necessary to an investigation, the facility shall provide such information.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209. **Administrative History:** Original rule filed March 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. Repeal and new rule filed September 21, 2005; effective December 5, 2005.

1200-08-06-.10 INFECTIOUS AND HAZARDOUS WASTE.

- (1) Each nursing home must develop, maintain and implement written policies and procedures for the definition and handling of its infectious and hazardous wastes. These policies and procedures must comply with the standards of this section and all other applicable state and federal regulations.
- (2) The following waste shall be considered to be infectious waste:
 - (a) Waste contaminated by residents who are isolated due to communicable disease, as provided in the U.S. Centers for Disease Control "Guidelines for Isolation Precautions in Hospitals";
 - (b) Cultures and stocks of infectious agents including specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, waste from the production of biologicals, discarded live and attenuated vaccines, culture dishes and devices used to transfer, inoculate, and mix cultures;
 - (c) Waste human blood and blood products such as serum, plasma, and other blood components;
 - (d) All discarded sharps (e.g., hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) used in resident care or which have come into contact with infectious agents during use in medical, research, or industrial laboratories; or,
 - (e) Other waste determined to be infectious by the facility in its written policy.

(Rule 1200-08-06-.10, continued)

- (3) Infectious and hazardous waste must be segregated from other waste at the point of generation, i.e., the point at which the material becomes a waste within the facility.
- (4) Waste must be packaged in a manner that will protect waste handlers and the public from possible injury and disease that may result from exposure to the waste. Such packaging must provide for containment of the waste from the point of generation up to the point of proper treatment or disposal. Packaging must be selected and utilized for the type of waste the package will contain, how the waste will be treated and disposed, and how it will be handled and transported prior to treatment and disposal.
 - (a) Contaminated sharps must be directly placed in leakproof, rigid, and puncture-resistant containers which must then be tightly sealed.
 - (b) Whether disposable or reusable, all containers, bags, and boxes used for containment and disposal of infectious waste must be conspicuously identified. Packages containing infectious waste which pose additional hazards (e.g., chemical, radiological) must also be conspicuously identified to clearly indicate those additional hazards.
 - (c) Reusable containers for infectious waste must be thoroughly sanitized each time they are emptied, unless the surfaces of the containers have been completely protected from contamination by disposable liners or other devices removed with the waste.
 - (d) Opaque packaging must be used for pathological waste.
- (5) After packaging, waste must be handled and transported by methods ensuring containment and preserving the integrity of the packaging, including the use of secondary containment where necessary.
 - (a) Infectious waste must not be compacted or ground (i.e., in a mechanical grinder) prior to treatment, except that pathological waste may be ground prior to disposal.
 - (b) Plastic bags of infectious waste must be transported by hand.
- (6) Waste must be stored in a manner which preserves the integrity of the packaging, inhibits rapid microbial growth and putrefaction, and minimizes the potential of exposure or access by unknowing persons. Waste must be stored in a manner and location which affords protection from animals, precipitation, wind, and direct sunlight, does not present a safety hazard, does not provide a breeding place or food source for insects or rodents and does not create a nuisance.
- (7) In the event of spills, ruptured packaging, or other incidents where there is a loss of containment of waste, the facility must ensure that proper actions are immediately taken to:
 - (a) Isolate the area from the public and all except essential personnel;
 - (b) To the extent practicable, repackage all spilled waste and contaminated debris in accordance with the requirements of this rule;
 - (c) Sanitize all contaminated equipment and surfaces appropriately. Written policies and procedures must specify how this will be done; and,
 - (d) Complete an incident report and maintain a copy on file.
- (8) Except as provided otherwise in this rule, a facility must treat or dispose of infectious waste by one or more of the methods specified in this paragraph.

(Rule 1200-08-06-.10, continued)

- (a) A facility may treat infectious waste in an on-site sterilization or disinfection device, or in an incinerator or a steam sterilizer, which has been designed, constructed, operated and maintained so that infectious waste treated in such a device is rendered non-infectious and is, if applicable, authorized for that purpose pursuant to current rules of the Department of Environment and Conservation. A valid permit or other written evidence of having complied with the Tennessee Air Pollution Control Regulations shall be available for review, if required. Each sterilizing or disinfection cycle must contain appropriate indicators to assure conditions were met for proper sterilization or disinfection of materials included in the cycle, and records kept. Proper operation of such devices must be verified at least monthly, and records of these monthly checks shall be available for review. Waste that contains toxic chemicals that would be volatilized by steam must not be treated in steam sterilizers. Infectious waste that has been rendered to carbonized or mineralized ash shall be deemed non-infectious. Unless otherwise hazardous and subject to the hazardous waste management requirements of the current rules of the Department of Environment and Conservation, such ash shall be disposable as a non-hazardous solid waste under current rules of the Department of Environment and Conservation.
 - (b) The facility may discharge liquid or semi-liquid infectious waste to the collection sewerage system of a wastewater treatment facility which is subject to a permit pursuant to T.C.A. § 69-3-101, et seq., provided that such discharge is in accordance with any applicable terms of that permit and/or any applicable municipal sewer use requirements.
 - (c) Any health care facility accepting waste from another state must promptly notify the Department of Environment and Conservation, county, and city public health agencies, and must strictly comply with all applicable local, state and federal regulations.
- (9) The facility may have waste transported off-site for storage, treatment, or disposal. Such arrangements must be detailed in a written contract, available for review. If such off-site location is in Tennessee, the facility must ensure that it has all necessary state and local approvals, and such approvals shall be available for review. If the off-site location is in another state, the facility must notify in writing all public health agencies with jurisdiction that the location is being used for management of the facility's waste. Waste shipped off-site must be packaged in accordance with applicable federal and state requirements. Waste transported to a sanitary landfill in this state must meet the requirements of current rules of the Department of Environment and Conservation.
- (10) All garbage, trash and other non-infectious waste shall be stored and disposed of in a manner that shall not permit the transmission of disease, create a nuisance, provide a breeding place for insects and rodents, or constitute a safety hazard. All containers for waste shall be water tight, constructed of easily cleanable material and shall be kept on elevated platforms.

Authority: T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209. **Administrative History:** Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Amendment filed July 3, 1984; effective August 1, 1984. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed February 11, 1992; effective March 27, 1992. Amendment filed January 6, 1995; effective March 22, 1995. Amendment filed June 13, 1997; effective August 27, 1997. Repeal and new rule filed January 31, 2000; effective April 15, 2000.

1200-08-06-.11 RECORDS AND REPORTS.

- (1) The nursing home shall report each case of communicable disease to the local county health officer in the manner provided by existing regulations. Failure to report a communicable disease may result in disciplinary action, including revocation of the facility's license.
- (2) Unusual events shall be reported by the facility to the Department of Health in a format designed by the Department within seven (7) business days of the date of the identification of the abuse of a patient or an unexpected occurrence or accident that results in death, life threatening or serious injury to a patient.
 - (a) The following represent circumstances that could result in an unusual event that is an unexpected occurrence or accident resulting in death, life threatening or serious injury to a patient, not related to a natural course of the patient's illness or underlying condition. The circumstances that could result in an unusual event include, but are not limited to:
 1. medication errors;
 2. aspiration in a non-intubated patient related to conscious/moderate sedation;
 3. intravascular catheter related events including necrosis or infection requiring repair or intravascular catheter related pneumothorax;
 4. volume overload leading to pulmonary edema;
 5. blood transfusion reactions, use of wrong type of blood and/or delivery of blood to the wrong patient;
 6. perioperative/periprocedural related complication(s) that occur within 48 hours of the operation or the procedure, including a procedure which results in any new central neurological deficit or any new peripheral neurological deficit with motor weakness;
 7. burns of a second or third degree;
 8. falls resulting in radiologically proven fractures, subdural or epidural hematoma, cerebral contusion, traumatic subarachnoid hemorrhage, and/or internal trauma, but does not include fractures resulting from pathological conditions;
 9. procedure related incidents, regardless of setting and within thirty (30) days of the procedure and includes readmissions, which include:
 - (i) procedure related injury requiring repair or removal of an organ;
 - (ii) hemorrhage;
 - (iii) displacement, migration or breakage of an implant, device, graft or drain;
 - (iv) post operative wound infection following clean or clean/contaminated case;
 - (v) any unexpected operation or reoperation related to the primary procedure;
 - (vi) hysterectomy in a pregnant woman;

(Rule 1200-08-06-.11, continued)

- (vii) ruptured uterus;
 - (viii) circumcision;
 - (ix) incorrect procedure or incorrect treatment that is invasive;
 - (x) wrong patient/wrong site surgical procedure;
 - (xi) unintentionally retained foreign body;
 - (xii) loss of limb or organ, or impairment of limb if the impairment is present at discharge or for at least two (2) weeks after occurrence;
 - (xiii) criminal acts;
 - (xiv) suicide or attempted suicide;
 - (xv) elopement from the facility;
 - (xvi) infant abduction, or infant discharged to the wrong family;
 - (xvii) adult abduction;
 - (xviii) rape;
 - (xix) patient altercation;
 - (xx) patient abuse, patient neglect, or misappropriation of resident/patient funds;
 - (xxi) restraint related incidents; or
 - (xxii) poisoning occurring within the facility.
- (b) Specific incidents that might result in a disruption of the delivery of health care services at the facility shall also be reported to the department, on the unusual event form, within seven (7) days after the facility learns of the incident. These specific incidents include the following:
1. strike by the staff at the facility;
 2. external disaster impacting the facility;
 3. disruption of any service vital to the continued safe operation of the facility or to the health and safety of its patients and personnel; and
 4. fires at the facility which disrupt the provision of patient care services or cause harm to patients or staff, or which are reported by the facility to any entity, including but not limited to a fire department, charged with preventing fires.
- (c) For health services provided in a "home" setting, only those unusual events actually witnessed or known by the person delivering health care services are required to be reported.
- (d) Within forty (40) days of the identification of the event, the facility shall file with the department a corrective action report for the unusual event reported to the department.

(Rule 1200-08-06-.11, continued)

The department's approval of a Corrective Action Report will take into consideration whether the facility utilized an analysis in identifying the most basic or causal factor(s) that underlie variation in performance leading to the unusual event by (a) determining the proximate cause of the unusual event, (b) analyzing the systems and processes involved in the unusual event, (c) identifying possible common causes, (d) identifying potential improvements, and (e) identifying measures of effectiveness. The corrective action report shall either: (1) explain why a corrective action report is not necessary; or (2) detail the actions taken to correct any error identified that contributed to the unusual event or incident, the date the corrections were implemented, how the facility will prevent the error from recurring in the future and who will monitor the implementation of the corrective action plan.

- (e) The department shall approve in writing, the corrective action report if the department is satisfied that the corrective action plan appropriately addresses errors that contributed to the unusual event and takes the necessary steps to prevent the recurrence of the errors. If the department fails to approve the corrective action report, then the department shall provide the facility with a list of actions that the department believes are necessary to address the errors. The facility shall be offered an informal meeting with the Commissioner or the Commissioner's representative to attempt to resolve any disagreement over the corrective action report. If the department and the facility fail to agree on an appropriate corrective action plan, then the final determination on the adequacy of the corrective action report shall be made by the Board after a contested case hearing.
- (f) The event report reviewed or obtained by the department shall be confidential and not subject to discovery, subpoena or legal compulsion for release to any person or entity, nor shall the report be admissible in any civil or administrative proceeding other than a disciplinary proceeding by the department or the appropriate regulatory board. The report is not discoverable or admissible in any civil or administrative action except that information in any such report may be transmitted to an appropriate regulatory agency having jurisdiction for disciplinary or license sanctions against the impacted facility. The department must reveal upon request its awareness that a specific event or incident has been reported.
- (g) The department shall have access to facility records as allowed in Title 68, Chapter 11, Part 3. The department may copy any portion of a facility medical record relating to the reported event unless otherwise prohibited by rule or statute. This section does not change or affect the privilege and confidentiality provided by T.C.A. §63-6-219.
- (h) The department, in developing the unusual event report form, shall establish an event occurrence code that categorizes events or specific incidents by the examples set forth above in (a) and (b). If an event or specific incident fails to come within these examples, it shall be classified as "other" with the facility explaining the facts related to the event or incident.
- (i) This does not preclude the department from using information obtained under these rules in a disciplinary action commenced against a facility, or from taking a disciplinary action against a facility. Nor does this preclude the department from sharing such information with any appropriate governmental agency charged by federal or state law with regulatory oversight of the facility. However, all such information must at all times be maintained as confidential and not available to the public. Failure to report an unusual event, submit a corrective action report, or comply with a plan of correction as required herein may be grounds for disciplinary action pursuant to T.C.A. §68-11-207.
- (j) The affected patient and/or the patient's family, as may be appropriate, shall also be notified of the event or incident by the facility.

(Rule 1200-08-06-.11, continued)

- (k) During the second quarter of each year, the Department shall provide the Board an aggregate report summarizing by type the number of unusual events and incidents reported by facilities to the Department for the preceding calendar year.
 - (l) The Department shall work with representatives of facilities subject to these rules, and other interested parties, to develop recommendations to improve the collection and assimilation of specific aggregate health care data that, if known, would track health care trends over time and identify system-wide problems for broader quality improvement. The goal of such recommendations should be to better coordinate the collection of such data, to analyze the data, to identify potential problems and to work with facilities to develop best practices to remedy identified problems. The Department shall prepare and issue a report regarding such recommendations.
- (3) The nursing home shall retain legible copies of the following records and reports for thirty-six months following their issuance. They shall be maintained in a single file and shall be made available for inspection during normal business hours to any person who requests to view them:
- (a) Local fire safety inspections;
 - (b) Local building code inspections, if any;
 - (c) Fire marshal reports;
 - (d) Department licensure and fire safety inspections and surveys;
 - (e) Federal Health Care Financing Administration surveys and inspections, if any;
 - (f) Orders of the Commissioner or Board, if any;
 - (g) Comptroller of the Treasury's audit reports and findings, if any; and,
 - (h) Maintenance records of all safety and patient care equipment.
 - 1. Routine maintenance shall be administered according to the manufacture's recommended maintenance for the above equipment.
 - 2. Ensure that facility staff or contract personnel are appropriately trained to conduct safety and patient care equipment inspections.
- (4) A yearly statistical report, the "Joint Annual Report of Nursing Homes", shall be submitted to the Department. The forms are mailed to each nursing home by the Department each year. The forms shall be completed and returned to the Department as requested.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, and 68-11-804. **Administrative History:** Original rule filed March 27, 1975; effective April 25, 1997. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed December 29, 1993; effective February 15, 1993. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed September 4, 2003; effective November 18, 2003. Amendment filed April 17, 2007; effective July 1, 2007.

1200-08-06-.12 RESIDENT RIGHTS.

- (1) The nursing home shall establish and implement written policies and procedures setting forth the rights of residents for the protection and preservation of dignity, individuality and, to the extent medically feasible, independence. Residents and their families or other representatives shall be fully informed and documentation shall be maintained in the resident's file of the following rights:
 - (a) To privacy in treatment and personal care;
 - (b) To privacy, if married, for visits by his/her spouse;
 - (c) To share a room with his/her spouse (if both are residents);
 - (d) To be different, in order to promote social, religious and psychological well being;
 - (e) To privately talk and/or meet with and see anyone;
 - (f) To send and receive mail promptly and unopened;
 - (g) To be free from mental and physical abuse. Should this right be violated, the facility must notify the department within five (5) working days. The Tennessee Department of Human Services, Adult Protective Services shall be notified immediately as required in T.C.A. §71-6-103;
 - (h) To be free from chemical and physical restraints;
 - (i) To meet with members of and take part in activities of social, commercial, religious and community groups. The administrator may refuse access to the facility to any person if that person's presence would be injurious to the health and safety of a resident or staff, or would threaten the security of the property of the resident, staff or facility;
 - (j) To form and attend resident council meetings. The facility shall provide space for meetings and reasonable assistance to the council when requested;
 - (k) To retain and use personal clothing and possessions as space permits;
 - (l) To be free from being required by the facility to work or perform services;
 - (m) To be fully informed by a physician of his/her health and medical condition. The facility shall give the resident and family the opportunity to participate in planning the resident's care and medical treatment;
 - (n) To refuse treatment. The resident must be informed of the consequences of that decision. The refusal and its reason must be reported to the physician and documented in the medical record;
 - (o) To refuse experimental treatment and drugs. The resident's or health care decision maker's written consent for participation in research must be obtained and retained in his or her medical record;
 - (p) To have their records kept confidential and private. Written consent by the resident must be obtained prior to release of information except to persons authorized by law. If the resident lacks capacity, written consent is required from the resident's health care

(Rule 1200-08-06-.12, continued)

- decision maker. The nursing home must have policies to govern access and duplication of the resident's record;
- (q) To manage personal financial affairs. Any request by the resident for assistance must be in writing. A request for any additional person to have access to a resident's funds must also be in writing;
 - (r) To be told in writing before or at the time of admission about the services available in the facility and about any extra charges, charges for services not covered under Medicare or Medicaid, or not included in the facility's bill;
 - (s) To be free from discrimination because of the exercise of the right to speak and voice complaints;
 - (t) To exercise his/her own independent judgment by executing any documents, including admission forms;
 - (u) To have a free choice of providers of medical services, such as physician and pharmacy. However, medications must be supplied in packaging consistent with the medication system of the nursing home;
 - (v) To be free from involuntary transfer or discharge, except for these reasons:
 - 1. Medical reasons;
 - 2. His/her welfare or that of the other residents; or
 - 3. Nonpayment, except as prohibited by the Medicaid program;
 - (w) To voice grievances and complaints, and to recommend changes in policies and services to the facility staff or outside representatives of the resident's choice. The facility shall establish a grievance procedure and fully inform all residents and family members or other representatives of the procedure;
 - (x) To have appropriate assessment and management of pain; and
 - (y) To be involved in the decision making of all aspects of their care.
- (2) The rights set forth in this section may be abridged, restricted, limited or amended only as follows:
- (a) When medically contraindicated;
 - (b) When necessary to protect and preserve the rights of other residents in the facility; or
 - (c) When contradicted by the explicit provisions of another rule of the board.
- (3) Any reduction in residents' rights based upon medical consideration or the rights of other residents must be explicit, reasonable, appropriate to the justification, and the least restrictive response feasible. They may be time-limited, shall be explained to the resident, and must be documented in the individual resident's record by reciting the limitation's reason and scope. Medical contraindications shall be supported by a physician's order. At least once each month, the administrator and the director of nursing shall review the restriction's justification and scope before removing it, amending it, or renewing it. The names of any residents in the facility whose rights have been restricted under the provisions of this rule shall be maintained

(Rule 1200-08-06-.12, continued)

on a separate list which shall be available for inspection by the department and by the area long-term care ombudsman.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-901, and 68-11-902. **Administrative History:** Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Amendment filed May 24, 1985; effective June 23, 1985. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed May 10, 1990; effective June 24, 1990. Amendment filed March 9, 1992; effective April 23, 1992. Amendment filed March 10, 1995; effective May 24, 1995. Amendment filed June 13, 1997; effective August 27, 1997. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed September 21, 2005; effective December 5, 2005.

1200-08-06-.13 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.

- (1) Pursuant to this Rule, each nursing home shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a resident who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual residents. An adult or emancipated minor may give an individual instruction. The instruction may be oral or written. The instruction may be limited to take effect only if a specified condition arises.
- (2) An adult or emancipated minor may execute an advance directive for health care. The advance directive may authorize an agent to make any health care decision the resident could have made while having capacity, or may limit the power of the agent, and may include individual instructions. The effect of an advance directive that makes no limitation on the agent's authority shall be to authorize the agent to make any health care decision the resident could have made while having capacity.
- (3) The advance directive shall be in writing, signed by the resident, and shall either be notarized or witnessed by two (2) witnesses. Both witnesses shall be competent adults, and neither of them may be the agent. At least one (1) of the witnesses shall be a person who is not related to the resident by blood, marriage, or adoption and would not be entitled to any portion of the estate of the resident upon the death of the resident. The advance directive shall contain a clause that attests that the witnesses comply with the requirements of this paragraph.
- (4) Unless otherwise specified in an advance directive, the authority of an agent becomes effective only upon a determination that the resident lacks capacity, and ceases to be effective upon a determination that the resident has recovered capacity.
- (5) A facility shall use the mandatory advance directive form that meets the requirements of the Tennessee Health Care Decisions Act and has been developed and issued by the Board for Licensing Health Care Facilities.
- (6) A determination that a resident lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent shall be made by the designated physician, who is authorized to consult with such other persons as he or she may deem appropriate.
- (7) An agent shall make a health care decision in accordance with the resident's individual instructions, if any, and other wishes to the extent known to the agent. Otherwise, the agent shall make the decision in accordance with the resident's best interest. In determining the resident's best interest, the agent shall consider the resident's personal values to the extent known.
- (8) An advance directive may include the individual's nomination of a court-appointed guardian.

(Rule 1200-08-06-.13, continued)

- (9) A health care facility shall honor an advance directive that is executed outside of this state by a nonresident of this state at the time of execution if that advance directive is in compliance with the laws of Tennessee or the state of the resident's residence.
- (10) No health care provider or institution shall require the execution or revocation of an advance directive as a condition for being insured for, or receiving, health care.
- (11) Any living will, durable power of attorney for health care, or other instrument signed by the individual, complying with the terms of Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, shall be given effect and interpreted in accord with those respective acts. Any advance directive that does not evidence an intent to be given effect under those acts but that complies with these regulations may be treated as an advance directive under these regulations.
- (12) A resident having capacity may revoke the designation of an agent only by a signed writing or by personally informing the supervising health care provider.
- (13) A resident having capacity may revoke all or part of an advance directive, other than the designation of an agent, at any time and in any manner that communicates an intent to revoke.
- (14) A decree of annulment, divorce, dissolution of marriage, or legal separation revokes a previous designation of a spouse as an agent unless otherwise specified in the decree or in an advance directive.
- (15) An advance directive that conflicts with an earlier advance directive revokes the earlier directive to the extent of the conflict.
- (16) Surrogates.
 - (a) An adult or emancipated minor may designate any individual to act as surrogate by personally informing the supervising health care provider. The designation may be oral or written.
 - (b) A surrogate may make a health care decision for a resident who is an adult or emancipated minor if and only if:
 1. the resident has been determined by the designated physician to lack capacity, and
 2. no agent or guardian has been appointed, or
 3. the agent or guardian is not reasonably available.
 - (c) In the case of a resident who lacks capacity, the resident's surrogate shall be identified by the supervising health care provider and documented in the current clinical record of the facility at which the resident is receiving health care.
 - (d) The resident's surrogate shall be an adult who has exhibited special care and concern for the resident, who is familiar with the resident's personal values, who is reasonably available, and who is willing to serve.
 - (e) Consideration may be, but need not be, given in order of descending preference for service as a surrogate to:

(Rule 1200-08-06-.13, continued)

1. the resident's spouse, unless legally separated;
 2. the resident's adult child;
 3. the resident's parent;
 4. the resident's adult sibling;
 5. any other adult relative of the resident; or
 6. any other adult who satisfies the requirements of 1200-08-06-.13(16)(d).
- (f) No person who is the subject of a protective order or other court order that directs that person to avoid contact with the resident shall be eligible to serve as the resident's surrogate.
- (g) The following criteria shall be considered in the determination of the person best qualified to serve as the surrogate:
1. Whether the proposed surrogate reasonably appears to be better able to make decisions either in accordance with the known wishes of the resident or in accordance with the resident's best interests;
 2. The proposed surrogate's regular contact with the resident prior to and during the incapacitating illness;
 3. The proposed surrogate's demonstrated care and concern;
 4. The proposed surrogate's availability to visit the resident during his or her illness; and
 5. The proposed surrogate's availability to engage in face-to-face contact with health care providers for the purpose of fully participating in the decision-making process.
- (h) If the resident lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-06-.13(16)(c) thru 1200-08-06-.13(16)(g) is reasonably available, the designated physician may make health care decisions for the resident after the designated physician either:
1. Consults with and obtains the recommendations of a facility's ethics mechanism or standing committee in the facility that evaluates health care issues; or
 2. Obtains concurrence from a second physician who is not directly involved in the resident's health care, does not serve in a capacity of decision-making, influence, or responsibility over the designated physician, and is not under the designated physician's decision-making, influence, or responsibility.
- (i) In the event of a challenge, there shall be a rebuttable presumption that the selection of the surrogate was valid. Any person who challenges the selection shall have the burden of proving the invalidity of that selection.
- (j) A surrogate shall make a health care decision in accordance with the resident's individual instructions, if any, and other wishes to the extent known to the surrogate. Otherwise, the surrogate shall make the decision in accordance with the surrogate's determination of the resident's best interest. In determining the resident's best interest,

(Rule 1200-08-06-.13, continued)

the surrogate shall consider the resident's personal values to the extent known to the surrogate.

- (k) A surrogate who has not been designated by the resident may make all health care decisions for the resident that the resident could make on the resident's own behalf, except that artificial nutrition and hydration may be withheld or withdrawn for a resident upon a decision of the surrogate only when the designated physician and a second independent physician certify in the resident's current clinical records that the provision or continuation of artificial nutrition or hydration is merely prolonging the act of dying and the resident is highly unlikely to regain capacity to make medical decisions.
 - (l) Except as provided in 1200-08-06-.13(16)(m):
 - 1. Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a health care institution nor an employee of an operator of a health care institution may be designated as a surrogate; and
 - 2. A health care provider or employee of a health care provider may not act as a surrogate if the health care provider becomes the resident's treating health care provider.
 - (m) An employee of the treating health care provider or an employee of an operator of a health care institution may be designated as a surrogate if:
 - 1. the employee so designated is a relative of the resident by blood, marriage, or adoption; and
 - 2. the other requirements of this section are satisfied.
 - (n) A health care provider may require an individual claiming the right to act as surrogate for a resident to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.
- (17) Guardian.
- (a) A guardian shall comply with the resident's individual instructions and may not revoke the resident's advance directive absent a court order to the contrary.
 - (b) Absent a court order to the contrary, a health care decision of an agent takes precedence over that of a guardian.
 - (c) A health care provider may require an individual claiming the right to act as guardian for a resident to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.
- (18) A designated physician who makes or is informed of a determination that a resident lacks or has recovered capacity, or that another condition exists which affects an individual instruction or the authority of an agent, guardian, or surrogate, shall promptly record the determination in the resident's current clinical record and communicate the determination to the resident, if possible, and to any person then authorized to make health care decisions for the resident.
- (19) Except as provided in 1200-08-06-.13(20) thru 1200-08-06-.13(22), a health care provider or institution providing care to a resident shall:

(Rule 1200-08-06-.13, continued)

- (a) comply with an individual instruction of the resident and with a reasonable interpretation of that instruction made by a person then authorized to make health care decisions for the resident; and
 - (b) comply with a health care decision for the resident made by a person then authorized to make health care decisions for the resident to the same extent as if the decision had been made by the resident while having capacity.
- (20) A health care provider may decline to comply with an individual instruction or health care decision for reasons of conscience.
- (21) A health care institution may decline to comply with an individual instruction or health care decision if the instruction or decision is:
- (a) contrary to a policy of the institution which is based on reasons of conscience, and
 - (b) the policy was timely communicated to the resident or to a person then authorized to make health care decisions for the resident.
- (22) A health care provider or institution may decline to comply with an individual instruction or health care decision that requires medically inappropriate health care or health care contrary to generally accepted health care standards applicable to the health care provider or institution.
- (23) A health care provider or institution that declines to comply with an individual instruction or health care decision pursuant to 1200-08-06-.13(20) thru 1200-08-06-.13(22) shall:
- (a) promptly so inform the resident, if possible, and any person then authorized to make health care decisions for the resident;
 - (b) provide continuing care to the resident until a transfer can be effected or until the determination has been made that transfer cannot be effected;
 - (c) unless the resident or person then authorized to make health care decisions for the resident refuses assistance, immediately make all reasonable efforts to assist in the transfer of the resident to another health care provider or institution that is willing to comply with the instruction or decision; and
 - (d) if a transfer cannot be effected, the health care provider or institution shall not be compelled to comply.
- (24) Unless otherwise specified in an advance directive, a person then authorized to make health care decisions for a resident has the same rights as the resident to request, receive, examine, copy, and consent to the disclosure of medical or any other health care information.
- (25) A health care provider or institution acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for:
- (a) complying with a health care decision of a person apparently having authority to make a health care decision for a resident, including a decision to withhold or withdraw health care;
 - (b) declining to comply with a health care decision of a person based on a belief that the person then lacked authority; or

(Rule 1200-08-06-.13, continued)

- (c) complying with an advance directive and assuming that the directive was valid when made and had not been revoked or terminated.

- (26) An individual acting as an agent or surrogate is not subject to civil or criminal liability or to discipline for unprofessional conduct for health care decisions made in good faith.

- (27) A person identifying a surrogate is not subject to civil or criminal liability or to discipline for unprofessional conduct for such identification made in good faith.

- (28) A copy of a written advance directive, revocation of an advance directive, or designation or disqualification of a surrogate has the same effect as the original.

- (29) The withholding or withdrawal of medical care from a resident in accordance with the provisions of the Tennessee Health Care Decisions Act shall not, for any purpose, constitute a suicide, euthanasia, homicide, mercy killing, or assisted suicide.

- (30) Universal Do Not Resuscitate Order (DNR).
 - (a) The Physicians Order for Scope of Treatment (POST) form, a mandatory form meeting the provisions of the Health Care Decision Act and approved by the Board for Licensing Health Care Facilities, shall be used as the Universal Do Not Resuscitate Order by all facilities. A universal do not resuscitate order (DNR) may be used by a physician for his/her patient with whom he/she has a physician/patient relationship, but only:
 - 1. with the consent of the patient; or
 - 2. if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act; or
 - 3. if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order and the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act is not reasonably available, the physician determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.

 - (b) If the resident is an adult who is capable of making an informed decision, the resident's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke a universal do not resuscitate order. If the resident is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the resident be resuscitated by the person authorized to consent on the resident's behalf shall revoke a universal do not resuscitate order.

 - (c) Universal do not resuscitate orders shall remain valid and in effect until revoked. Qualified emergency medical services personnel, and licensed health care practitioners in any facility, program or organization operated or licensed by the board for licensing health care facilities or by the department of mental health and developmental disabilities or operated, licensed, or owned by another state agency are authorized to follow universal do not resuscitate orders.

 - (d) Nothing in these rules shall authorize the withholding of other medical interventions, such as intravenous fluids, oxygen, or other therapies deemed necessary to provide comfort care or to alleviate pain.

(Rule 1200-08-06-.13, continued)

- (e) If a person with a universal do not resuscitate order is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of the universal do not resuscitate order to the receiving facility prior to the transfer. The transferring facility shall assure that a copy of the universal do not resuscitate order accompanies the resident in transport to the receiving health care facility. Upon admission, the receiving facility shall make the universal do not resuscitate order a part of the resident's record.
- (f) This section shall not prevent, prohibit, or limit a physician from issuing a written order, other than a universal do not resuscitate order, not to resuscitate a resident in the event of cardiac or respiratory arrest in accordance with accepted medical practices.
- (g) Valid do not resuscitate orders or emergency medical services do not resuscitate orders issued before July 1, 2004, pursuant to the then-current law, shall remain valid and shall be given effect as provided.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, 68-11-1801 through 68-11-1815. **Administrative History:** Original rule filed June 22, 1992; effective August 6, 1992. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed September 21, 2005; effective December 5, 2005. Amendment filed February 7, 2007; effective April 23, 2007.

1200-08-06-.14 DISASTER PREPAREDNESS.

- (1) Emergency Electrical Power.
 - (a) All nursing homes must have one or more on-site electrical generators which are capable of providing emergency electrical power to at least all life sustaining equipment and life sustaining resources such as: ventilators, blood banks, biological refrigerators, safety switches for boilers, safety lighting for corridors and stairwells, and other essential equipment.
 - (b) Connections shall be through a switch which shall automatically transfer the circuits to the emergency power source in case of power failure. It is recognized that some equipment may not sustain automatic transfer and provisions will have to be made to manually change these items from a non-emergency powered outlet to an emergency powered outlet or other power source. All emergency power transfer switches shall be labeled as such. Switches affecting heat, ventilation, and all systems shall be labeled.
 - (c) The emergency power system shall have a minimum of twenty four (24) hours of either propane, gasoline or diesel fuel. The quantity shall be based on its expected or known connected load consumption during power interruptions. In addition, the nursing home shall have a written contract with an area fuel distributor which guarantees first priority service for re-fills during power interruptions.
 - (d) The emergency power system (generator) shall be inspected weekly and exercised under actual load and operating temperature conditions for at least thirty (30) minutes, once each month, including automatic and manual transfer of equipment. The generator shall be exercised by trained facility staff who are familiar with the systems operation. Instructions for the operation of the systems and the manual transfer of emergency power shall be maintained with the facility's disaster preparedness plan and shall be separately identified in the plan. Records shall be maintained for all weekly inspections and monthly tests and be kept on file for a minimum of three (3) years.
- (2) Physical Facility and Community Emergency Plans.

(Rule 1200-08-06-.14, continued)

(a) Physical Facility (Internal Situations).

1. Every nursing home shall have a current internal emergency plan, or plans, that provides for fires, bomb threats, severe weather, utility service failures, plus any local high risk situations such as floods, earthquakes, toxic fumes and chemical spills. The plan should consider the probability of the types of disasters which might occur, both natural and "man-made".
2. The plan(s) must include provisions for the relocation of persons within the building and/or either partial or full building evacuation. Facilities which do not have sufficient emergency generator capacity to provide a place of refuge for residents during severe hot or cold weather emergencies shall specifically establish an emergency plan to assure a common area (dining room, hallway, or day rooms) is heated or cooled sufficiently to sustain residents during an emergency. This can be accomplished through several approaches including the installation of a transfer switch at the facility to which an emergency generator may be connected to operate a HVAC system for the place of refuge, or transportation of a generator to the facility and direct connection from the generator to emergency portable heating or cooling units. The plan must be coordinated with local emergency management agencies that provide emergency generators or heating or cooling units; and facilities are encouraged to enter into private agreements with local generator suppliers, rental agencies or other reliable sources of emergency power. Plans that provide for the relocation of residents to other health care facilities must have written agreements for emergency transfers. The agreements may be mutual, i.e. providing for transfers either way.
3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to all staff. A copy shall be readily available at all times in the telephone operator's position or at the security center. Provisions that have security implications may be omitted from the outline versions. Familiarization information shall be included in employee orientation sessions and more detailed instructions must be included in continuing education programs. Records of orientation and education programs must be maintained for at least three (3) years.
4. The plan must provide for additional staffing, medical supplies, blood and other resources which would probably be needed.
5. Each of the following disaster preparedness plans shall be conducted annually prior to the month listed in the plan. Drills are for the purpose of educating staff, resource determination, testing personnel safety provisions and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.
 - (i) Fire Safety Procedures Plan, to be exercised at any time during the year, shall include:
 - (I) Minor fires;
 - (II) Major fires;
 - (III) Fighting the fire;
 - (IV) Evacuation procedures;

(Rule 1200-08-06-.14, continued)

- (V) Staff functions by department and job assignment; and,
 - (VI) Fire drill schedules (fire drills shall be held at least quarterly on each work shift).
- (ii) External disaster procedures plan (for tornado, flood, earthquake), to be exercised prior to March, shall include:
 - (I) Staff duties by department and job assignment; and,
 - (II) Evacuation procedures.
 - (iii) Bomb Threat Procedures Plan, to be exercised at any time during the year:
 - (I) Staff duties by department and job assignment; and,
 - (II) Search team, searching the premises.
6. The nursing home shall develop and periodically review with all employees a prearranged plan for the orderly evacuation of all residents in case of a fire, internal disaster or other emergency. The plan of evacuation shall be posted throughout the home. Fire drills shall be held at least quarterly for each work shift for nursing home personnel in each separate patient-occupied nursing home building. There shall be a written report documenting the evaluation of each drill and the action recommended or taken for any deficiencies found. Records which document and evaluate these drills must be maintained for at least three (3) years.
- (b) Community Emergency (Mass Casualty).
- 1. Every nursing home, unless exempted due to its limited scope of clinical services, shall have a plan that provides for the reception and treatment, within its capabilities, of medical emergencies resulting from a disaster within its usual service area. The plan should consider the probability of the types of disasters which might occur, both natural and "man-made".
 - 2. The plan must provide for additional staffing, medical supplies, blood and other resources which would probably be needed. The plan must also provide for the deferral of elective admission patients and also for the early transfer or discharge of some current patients if it appears that the number of casualties will exceed available staffed beds.
 - 3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to staff who would be assigned non-routine duties during these types of emergencies. Familiarization information shall be included in employee orientation sessions and more detailed instruction must be included in continuing education programs. Records of orientation and education must be maintained for at least three (3) years.
 - 4. At least one drill shall be conducted each year for the purpose of educating staff, resource determination, and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

(Rule 1200-08-06-.14, continued)

5. As soon as possible, actual community emergency situations that result in the treatment of more than twenty (20) patients, or fifteen percent (15%) of the licensed bed capacity, whichever is less, must be documented. Actual situations that had education and training value may be substituted for a drill. This includes documented actual plan activation during community emergencies, even if no patients are received.

(c) Emergency Planning with Local Government Authorities.

1. All nursing homes shall establish and maintain communications with the county Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The facility shall cooperate, to the extent possible, in area disaster drills and local emergency situations.
2. Each nursing home must rehearse both the Physical Facility and Community Emergency plan as required in this rule, even if the local Emergency Management Agency is unable to participate.
3. A file of documents demonstrating communications and cooperation with the local agency must be maintained.

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

Administrative History: Original rule filed February 9, 1998; effective April 25, 1998. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed September 21, 2005; effective December 5, 2005.

1200-08-06-.15 NURSE AIDE TRAINING AND COMPETENCY EVALUATION. All nurse aide training programs must comply with the federal nurse aide training and competency regulations, promulgated pursuant to the Omnibus Budget Reconciliation Act of 1987, and with federal labor laws, including but not limited to minimum age requirements. Copies of these regulations may be obtained from the department.

(1) Testing service.

(a) The Department shall provide or contract for the provision of nurse aide testing services as follows:

1. Annual publication of testing schedules and sites.
2. Test sites shall be located so that no individual is required to drive farther than thirty (30) miles to reach a test site.
3. Scheduled tests shall be administered, except when no individual is scheduled to test at a particular test site.
4. The number of individuals passing and failing shall be published following each test.
5. The minimum passing grade for each test shall be seventy-five percent (75%) for the written or oral component. The performance demonstration portion of the test shall consist, at minimum, of five performance tasks, which shall be selected randomly for each registrant from a pool of skills evaluation tasks ranked according to degree of difficulty, with at least one task selected from each degree of difficulty. Registrants are required to pass a minimum of five (5) performance tasks.

(Rule 1200-08-06-.15, continued)

6. Individuals who fail any portion of the test three (3) consecutive times shall repeat training prior to taking the test again.
 - (b) Applications to take the test shall be sent by the program coordinator to the appropriate testing agency postmarked no later than thirty (30) days prior to the test date. Requests for special testing needs shall be made to the testing agency at this time.
 - (c) The department shall provide the board with quarterly reports on the number of individuals passing and failing each test.
 - (d) A practical and written test will be developed to reflect that a trainee has acquired the minimum competency skills necessary to become a competent and qualified nurse aide. The Nurse Aide Advisory Committee, composed of twelve (12) members with at least three (3) members nominated by the Tennessee Health Care Association, will periodically review testing materials and set criteria for survey visits of the nurse aide programs.
 - (e) The test will be developed from a pool of questions, only a portion of which is to be used for grading purposes in any one test, not to exceed one hundred (100) questions. A system must be developed which prevents the disclosure of the pool of questions and of the performance demonstration portion of the test.
- (2) Training program.
 - (a) Requests for approval of a nurse aide training program shall be submitted to the department and shall include the following:
 1. Name, address and telephone number of the facility, institution or agency offering the program;
 2. The program coordinator's name, address, license number and verification of a minimum of two (2) years nursing experience, at least one of which must be in the provision of long-term care facility services;
 3. Statement of course objectives;
 4. Description of course content specifying the number of hours to be spent in the classroom and in clinical settings; and,
 5. In lieu of (3) and (4) above, the fact that the curriculum is previously department-approved.
 - (b) Notification of any change to any one of the above five (5) items or termination of the program must be submitted to the department within 30 days.
 - (c) Each training program shall have a pass rate on both written and performance exams of at least 70%. Annual reviews of Nurse Aide Training Programs shall include:
 1. Letter of commendation for exceptional pass rate as evaluated by the department;
 2. Letter of concern for programs having one year of test pass rates below 70%;
 3. Request for plan of program improvement for programs with two consecutive years of test pass rates below 70%;

(Rule 1200-08-06-.15, continued)

4. Request to appear before the Board for programs with two consecutive years of test pass rates below 70%; and
 5. Program is subject to closure after demonstration of a consistent pattern of poor test performance.
- (d) Each program coordinator shall be responsible for ensuring that the following requirements are met:
1. Course objectives are accomplished;
 2. Only persons having appropriate skills and knowledge are selected to conduct any part of the training;
 3. The provision of direct individual care to residents by a trainee is limited to appropriately supervised clinical experiences; a program instructor must be present or readily available on-site during all clinical training hours including direct patient care for the seventy-five (75) hour training program. All activities of daily living (ADL) skills, including but not limited to bathing, feeding, toileting, grooming, oral care, and perineal care, must be taught prior to student performing direct patient care;
 4. The area used for training is well-lighted, well-ventilated and provides for privacy for instruction. Such requirements are not to exceed the requirements for physical space in a nursing facility;
 5. Each trainee demonstrates competence in clinical skills and fundamental principles of resident care;
 6. Records are kept to verify the participation and performance of each trainee in each phase of the training program. The satisfactory completion of the training program by each trainee shall be attested to on each trainee's record;
 7. Each trainee is issued a certificate of completion which includes at least the name of the program, the date of issuance, the trainee's name and the signature of the program coordinator.
 8. The program coordinator shall be responsible for the completion, signing and submission to the department of all required documentation.
- (e) Student to teacher ratio must be as follows: 25:1 in classroom and 15:1 for direct patient care training.
- (3) Nurse Aide Registry. A nursing home must not use any individual working in a facility as a nurse aide for more than four (4) months unless that individual's name is included on the Nurse Aide Registry. A facility must not use on a temporary, per diem, leased or any basis other than permanent, any individual who does not meet the requirements of training and competency testing.
- (a) The nurse aide registry shall include:
1. The individual's full name, including a maiden name and any other surnames used;
 2. The individual's last known home address;

(Rule 1200-08-06-.16, continued)

D	medically feasible. <input type="checkbox"/> No IV fluids (provide other measures to assure comfort) <input type="checkbox"/> No feeding tube <input type="checkbox"/> IV fluids for a defined trial period <input type="checkbox"/> Feeding tube for a defined trial period <input type="checkbox"/> IV fluids long-term if indicated <input type="checkbox"/> Feeding tube long-term Other Instructions: _____		
Section E	Discussed with: <input type="checkbox"/> Patient/Resident <input type="checkbox"/> Health care agent <input type="checkbox"/> Court-appointed guardian <input type="checkbox"/> Health care surrogate <input type="checkbox"/> Parent of minor <input type="checkbox"/> Other: _____ (Specify)		The Basis for These Orders Is: (Must be completed) <input type="checkbox"/> Patient's preferences <input type="checkbox"/> Patient's best interest (patient lacks capacity or preferences unknown) <input type="checkbox"/> Medical indications <input type="checkbox"/> (Other) _____
Must be Completed	Physician Name (Print)	Physician Phone Number	Office Use Only
	Physician Signature (Mandatory)	Date	
COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED			

HIPAA PERMITS DISCLOSURE OF POST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY			
Signature of Patient, Parent of Minor, or Guardian/Health Care Representative			
Significant thought has been given to life-sustaining treatment. Preferences have been expressed to a physician and/or health care professional(s). This document reflects those treatment preferences. (If signed by surrogate, preferences expressed must reflect patient's wishes as best understood by surrogate.)			
Signature	Name (print)	Relationship (write "self" if patient)	
Contact Information			
Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared
Directions for Health Care Professionals			
<p><u>Completing POST</u></p> <p>Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.</p> <p>POST must be signed by a physician to be valid. Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.</p> <p>Photocopies/faxes of signed POST forms are legal and valid.</p> <p><u>Using POST</u></p> <p>Any incomplete section of POST implies full treatment for that section.</p> <p>No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".</p> <p>Oral fluids and nutrition <u>must</u> always be <u>offered</u> if medically feasible.</p> <p>When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).</p> <p>IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".</p>			

(Rule 1200-08-06-.16, continued)

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

- (1) The patient is transferred from one care setting or care level to another, or
- (2) There is a substantial change in the patient's health status, or
- (3) The patient's treatment preferences change.

Draw line through sections A through E and write "VOID" in large letters if POST is replaced or becomes invalid.

Approved by Tennessee Department of Health, Board for Licensing Health Care Facilities, February 2, 2005

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

(2) Advance Care Plan Form

ADVANCE CARE PLAN

Instructions: Competent adults and emancipated minors may give advance instructions using this form or any form of their own choosing. To be legally binding, the Advance Care Plan must be signed and either witnessed or notarized.

I, _____, hereby give these advance instructions on how I want to be treated by my doctors and other health care providers when I can no longer make those treatment decisions myself.

Agent: I want the following person to make health care decisions for me:

Name: _____ Phone #: _____ Relation: _____

Address: _____

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate:

Name: _____ Phone #: _____ Relation: _____

Address: _____

Quality of Life:

I want my doctors to help me maintain an acceptable quality of life including adequate pain management. A quality of life that is unacceptable to me means when I have any of the following conditions (you can check as many of these items as you want):

- Permanent Unconscious Condition: I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
- Permanent Confusion: I become unable to remember, understand or make decisions. I do not recognize loved ones or cannot have a clear conversation with them.
- Dependent in all Activities of Daily Living: I am no longer able to talk clearly or move by myself. I depend on others for feeding, bathing, dressing and walking. Rehabilitation or any other restorative treatment will not help.
- End-Stage Illnesses: I have an illness that has reached its final stages in spite of

(Rule 1200-08-06-.16, continued)

full treatment. Examples: Widespread cancer that does not respond anymore to treatment; chronic and/or damaged heart and lungs, where oxygen needed most of the time and activities are limited due to the feeling of suffocation.

Treatment:

If my quality of life becomes unacceptable to me and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. Checking "yes" means I WANT the treatment. Checking "no" means I DO NOT want the treatment.

<input type="checkbox"/>	<input type="checkbox"/>	CPR (Cardiopulmonary Resuscitation): To make the heart beat again and restore breathing after it has stopped. Usually this involves electric shock, chest compressions, and breathing assistance.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Life Support/Other Artificial Support: Continuous use of breathing machine, IV fluids, medications, and other equipment that helps the lungs, heart, kidneys and other organs to continue to work.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Treatment of New Conditions: Use of surgery, blood transfusions, or antibiotics that will deal with a new condition but will not help the main illness.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Tube feeding/IV fluids: Use of tubes to deliver food and water to patient's stomach or use of IV fluids into a vein which would include artificially delivered nutrition and hydration.
Yes	No	

Other instructions, such as burial arrangements, hospice care, etc.: _____

(Attach additional pages if necessary)

Organ donation (optional): Upon my death, I wish to make the following anatomical gift (please mark one):

Any organ/tissue My entire body Only the following organs/tissues: _____

SIGNATURE

Your signature should either be witnessed by two competent adults or notarized. If witnessed, neither witness should be the person you appointed as your agent, and at least one of the witnesses should be someone who is not related to you or entitled to any part of your estate.

Signature: _____ DATE: _____
 (Patient)

Witnesses:

1. I am a competent adult who is not named as the agent.
 I witnessed the patient's signature on this form. _____
 Signature of witness number 1
2. I am a competent adult who is not named as the agent.
 I am not related to the patient by blood, marriage, or adoption and I would not be entitled to any portion of the patient's estate upon his or her death under any existing will or codicil or by operation of law. I witnessed the patient's signature on this form. _____
 Signature of witness number 2

This document may be notarized instead of witnessed: _____

STATE OF TENNESSEE
 COUNTY OF _____

(Rule 1200-08-06-.16, continued)

I am a Notary Public in and for the State and County named above. The person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who signed as the "patient". The patient personally appeared before me and signed above or acknowledged the signature above as his or her own. I declare under penalty of perjury that the patient appears to be of sound mind and under no duress, fraud, or undue influence.

My commission expires: _____

 Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE

- Provide a copy to your physician(s)
- Keep a copy in your personal files where it is accessible to others
- Tell your closest relatives and friends what is in the document
- Provide a copy to the person(s) you named as your health care agent

Approved by Tennessee Department of Health, Board for Licensing Health Care Facilities, February 2, 2005
 Acknowledgement to Project GRACE for inspiring the development of this form.

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

Administrative History: Original rule filed February 16, 2007; effective May 2, 2007.

**RULES
OF
TENNESSEE BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS**

227 French Landing, Suite 300
Heritage Place, MetroCenter
Nashville, TN 37243

Chapters	Title
1020-01	General Rules Governing Nursing Home Administrators
1020-02	Rules of Procedure for Hearing Contested Cases

ADMINISTRATIVE HISTORY

Original Chapter 1020-01 was certified on June 7, 1974, under Chapter 491 of the Public Acts of 1974 as rules in effect when Chapter 491 became effective. The Administrative History following each rule gives the date on which the rule was certified, or the date on which the rule was filed and its effective date, if promulgated after March 11, 1974. The Administrative History after each rule also shows the dates of any amendments or repeals.

Original Chapter 1020-02 filed November 22, 1978; effective January 8, 1979.

Amendments to rules 1200-1-.04, 1020-01-.07, 1020-01-.08, 1020-01-.10, 1020-01-.14, 1020-01-.15, 1020-01-.16, 1020-01-.19 and 1020-01-.21 filed May 22, 1979; effective July 6, 1979.

Amendments to rules 1020-01-.01, 1020-01-.06, 1020-01-.07, 1020-01-.08, and 1020-01-.13 filed November 12, 1982; effective December 13, 1982.

Repeal of 1020-01-.02 filed November 12, 1982; effective December 13, 1982.

Amendments to rule 1020-01-.15 filed December 17, 1982; effective January 17, 1983.

Amendments to rule 1020-01-.06 filed February 3, 1983; effective March 7, 1983.

Amendments to rule 1020-01-.09 filed April 28, 1983; effective May 31, 1983.

New rule 1020-01-.10 filed December 30, 1983; effective January 29, 1984.

Amendment to rule 1020-01-.06 filed April 19, 1984; effective May 19, 1984.

Repeal to rules 1020-01-.01, 1020-01-.03, 1020-01-.05, 1020-01-.14, 1020-01-.15, 1020-01-.16, and 1020-01-.18 through 1020-01-.22 by Public Chapter 969; effective July 1, 1984.

Amendments to rule 1020-01-.16 filed September 11, 1984; effective October 11, 1984.

Amendment to rule 1020-01-.08 filed February 21, 1986; effective May 13, 1986.

Amendment to rule 1020-01-.13 filed January 13, 1987; effective February 27, 1987.

Amendment to rule 1020-01-.06 filed February 23, 1987; effective April, 9, 1987.

Amendment to rule 1020-01-.15 filed June 30, 1987; effective August 14, 1987.

Repeal of rule 1020-01-.04 filed October 22, 1987; effective December 6, 1987.

Amendments to rules 1020-01-.06, 1020-01-.07, 1020-01-.09, 1020-01-.10, 1020-01-.13 through 1020-01-.16 filed October 22, 1987; effective December 6, 1987.

Amendment to rule 1020-01-.17 filed September 24, 1987; effective December 29, 1987.

Amendment to rule 1020-01-.16 filed May 9, 1988; effective June 20, 1988.

Amendments to rules 1020-01-.06, 1020-01-.08, 1020-01-.10 and 1020-01-.14 filed January 4, 1989; effective February 18, 1989.

Amendments to rules 1020-01-.06, 1020-01-.07, and 1020-01-.13 filed August 14, 1989; effective September 28, 1989.

Amendment to rule 1020-01-.06 filed September 8, 1989; effective October 23, 1989.

Amendment to rule 1020-01-.16 filed January 4, 1990; effective February 18, 1990.

Amendment to rule 1020-01-.15 filed January 5, 1990; effective February 19, 1990.

Amendment to rule 1020-01-.15 filed March 16, 1990; effective April 30, 1990.

Amendments to rules 1020-01-.06, 1020-01-.14 and 1020-01-.15 filed July 19, 1990; effective September 2, 1990.

Amendment to rule 1020-01-.15 filed September 24, 1990; effective November 8, 1990.

Amendment to rules 1020-01-.06, 1020-01-.14 and 1020-01-.15 filed February 21, 1991; effective April 7, 1991.

Amendment to rule 1020-01-.09 filed May 9, 1991; effective June 22, 1991.

Repeal of and new rules 1020-01-.01 through 1020-01-.16 and repeal of rules 1020-01-.17 and 1020-01-23 filed December 17, 1991; effective January 31, 1992.

Amendment to rule 1020-01-.13 filed June 14, 1994; effective August 28, 1994.

Amendment to rules 1020-01-.01, 1020-01-.02, and 1020-01-.11 filed June 19, 1995; effective September 2, 1995.

Amendment filed 1020-01-.02 filed September 25, 1995; effective December 9, 1995.

Amendment to rules 1020-01-.02 and 1020-01-.03 filed June 13, 1996; effective August 24, 1996.

Repeal of and new rules 1020-01-.01 through 1020-01-.16 filed December 14, 1999; effective February 27, 2000.

Amendment to rules 1020-01-.03, 1020-01-.12, 1020-01-.13, 1020-01-.15 and 1020-01-.17 filed April 10, 2000; effective July 1, 2000.

Amendment to rules 1020-01-.02, 1020-01-.05 and 1020-01-.10 filed July 31, 2000; effective October 14, 2000.

Amendment to rules 1020-01-.06, 1020-01-.11 and 1020-01-.12 filed January 19, 2001; effective April 5, 2001.

Amendment to rules 1020-01-.05 and 1020-01-.12 filed January 23, 2002; effective April 8, 2002.

Amendment to rules 1020-01-.05, 1020-01-.10, and 1020-01-.15 filed February 20, 2002; effective May 6, 2002.

Amendment to rules 1020-01-.01, 1020-01-.02, and 1020-01-.11 filed August 6, 2002; effective October 20, 2002.

Repeal of and new rules 1020-01-.05, 1020-01-.07, and 1020-01-.08 and amendment to rules 1020-01-.01, 1020-01-.04, 1020-01-.06, 1020-01-.09, 1020-01-.10, and 1020-01-.11 filed September 4, 2003; effective November 18, 2003.

Amendments to rule 1020-01-.15 filed December 28, 2004; effective March 13, 2005.

Amendments to rules 1020-01-.01, 1020-01-.06, and 1020-01-.13 filed December 9, 2005; effective February 22, 2006.

Amendment to rule 1020-01-.08 filed March 17, 2006; effective May 31, 2006.

Amendment to rules 1020-01-.03, 1020-01-.06, 1020-01-.08, 1020-01-.12, 1020-01-.16 and new rule 1020-01-.18 filed July 27, 2006; effective October 10, 2006.

Amendment to rules 1020-01-.03, .10, and .15 filed March 22, 2007; effective June 5, 2007.

Amendments to rules 1020-01-.07, .10, .15 and .16 filed July 23, 2010; effective October 21, 2010.

Amendments to rule 1020-01-.02 filed September 14, 2010; effective December 13, 2010.

**RULES
OF
TENNESSEE BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS**

**CHAPTER 1020-01
GENERAL RULES GOVERNING NURSING HOME ADMINISTRATORS**

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1020-01-.01 DEFINITIONS.

- (1) Administrator (Nursing Home Administrator). Any individual responsible for planning, organizing, directing or controlling the operation of a nursing home, or who in fact performs such functions, whether or not such functions are shared by one or more other people.
- (2) Administrator Review 107(e). The process provided for by T.C.A. § 63-16-107(e) for review of fitness as a prerequisite to licensure renewal.
- (3) Affirmative Finding. The term used to describe the finding contemplated by T.C.A. § 63-16-107(e) that an administrator under review pursuant to that statute can be expected to satisfactorily discharge the duties of an administrator in the future, in a manner which assures an adequate level of care for nursing home residents.
- (4) A.I.T. (Administrator-In-Training). A person participating in an administrator-in- training program.
- (5) Assistant Administrator. The person directly responsible to the administrator of a facility with the same responsibilities as an administrator during the administrator's absence from the facility.
- (6) Assistant or Associate Hospital Administrator. An individual, qualified by education and/or experience (minimum of five of the last seven years as an administrative officer), who serves as the chief operating officer. This individual is appointed by the chief executive officer, usually with the concurrence of the governing authority.
 - (a) The assistant/associate administrator is: directly responsible for the operation of several hospital departments and assists the administrator, as assigned, in other executive management functions; "in charge" of the facility during the absence of the administrator; and, must follow its mission, goals and objectives that have been adopted.
 - (b) This individual must work with community, county and state governments on a wide variety of topics.

(Rule 1020-01-.01, continued)

- (7) Board. The Tennessee Board of Examiners for Nursing Home Administrators.
- (8) Board Administrative Office. The office of the administrator assigned to the Tennessee Board of Examiners for Nursing Home Administrators located at 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243.
- (9) Clock Hour. The measure of time for continuing education courses which equals sixty (60) minutes.
- (10) Division. The Division of Health Related Boards of the Department of Health, from which the Board receives administrative support.
- (11) Domains of Practice - Those areas of nursing home administration defined by the "Job Analysis Study" conducted by NAB.
- (12) Facility. A licensed nursing home facility.
- (13) Jurisprudence Examination. The examination on Tennessee statutes and rules for nursing homes in Tennessee.
- (14) Licensee. Any person who has been lawfully issued a license to practice nursing home administration in Tennessee.
- (15) NAB. The National Association of Boards of Examiners for Long Term Care Administrators.
- (16) NAB Examination. The nursing home administrators licensure examination developed by NAB.
- (17) Nursing Home. Any institution or facility defined as such pursuant to state law or the rules and regulations for nursing homes promulgated by the Board for Licensing Health Care Facilities. This term shall apply equally to Christian Science Santeria and services therein.
- (18) Practice of Nursing Home Administration. The planning, organizing, directing, or controlling of the operation of a nursing home.
- (19) Preceptor. A licensee in a teaching role who has the training, knowledge, professional activity, and a facility at which he or she trains prospective nursing home administrators. The preceptor will coordinate the program of development of an A.I.T.
- (20) Reciprocity Licensure. Licensure by endorsement from another state.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-101, 63-16-103, 63-16-105, 63-16-107, and 63-16-108.

Administrative History: Original rule certified June 7, 1974. Amendment filed November 12, 1982; effective December 13, 1982. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 19, 1995; effective September 2, 1995. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed August 6, 2002; effective October 20, 2002. Amendment filed September 4, 2003; effective November 18, 2003. Amendment filed December 9, 2005; effective February 22, 2006.

1020-01-.02 FEES.

- (1) The fees authorized by the Practice Act (T.C.A. § 63-16-101, et seq.) and other applicable statutes, to be established by the Board are as follows:

(Rule 1020-01-.02, continued)

- | | | |
|-----|---|----------|
| (a) | Application Fee. A nonrefundable fee to be paid each time an application for licensure is filed. | \$300.00 |
| (b) | License Renewal Fee. A biennial nonrefundable fee to be paid by all licensees. | \$210.00 |
| (c) | State Regulatory Fee. A non-refundable fee to be paid upon licensure and biennially for renewal of licensure. | \$ 10.00 |
| (d) | Late Renewal Fee. A non-refundable fee to be paid to reinstate an expired license. | \$200.00 |
| (e) | Duplicate License Fee. A nonrefundable fee to be paid to obtain a duplicate license. | \$ 50.00 |
| (f) | Certificate of Fitness Fee. A nonrefundable fee to be paid to obtain a certificate of fitness. | \$ 50.00 |
| (g) | Jurisprudence Examination Fee. A nonrefundable fee to be paid each time a person takes the Board's jurisprudence examination. | \$150.00 |
- (2) Fees may be paid in the following manner:
- (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board's Administrative Office and made payable to the Board of Examiners for Nursing Home Administrators.
 - (b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-203, 4-5-204, 63-1-106, 63-1-107, 63-1-118, 63-16-103 through 63-16-105, 63-16-106, 63-16-107, and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Repeal filed November 12, 1982; effective December 13, 1982. New rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 19, 1995; effective September 2, 1995. Amendment filed September 25, 1995; effective December 9, 1995. Amendment filed June 13, 1996; effective August 24, 1996. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed August 6, 2002; effective October 20, 2002. Amendments filed September 14, 2010; effective December 13, 2010.

1020-01-.03 BOARD OFFICERS, RECORDS, MEETINGS, CONSULTANTS, CHANGE OF ADDRESS AND/OR NAME, AND DECLARATORY ORDERS AND SCREENING PANELS

- (1) The Board shall annually elect from its members the following officers:
 - (a) Chairman - who shall preside at all Board meetings.
 - (b) Vice Chairman - who shall preside at Board meetings in the absence of the Chairman.
 - (c) Secretary - who along with the Board Administrator shall be responsible for all administrative functions, records and correspondence of the Board.
- (2) The rules of parliamentary procedures as contained in "Robert's Rules of Order, Revised" shall govern all meetings of the Board.
- (3) Minutes of the Board meetings and all records, documents, applications and correspondence will be maintained in the Board Administrative Office.

(Rule 1020-01-.03, continued)

- (4) All requests, applications, notices, complaints, other communications and correspondence shall be directed to the Board Administrative Office. Any requests or inquiries requiring a Board decision or official Board action, except documents relating to disciplinary actions, declaratory orders or hearing requests, must be in the hands of the Board Administrator on or before the tenth (10th) working day preceding the next scheduled meeting of the Board, and will be retained in the Administrative Office and presented at the Board meeting. Documents not timely received shall be set over to the next Board meeting.
- (5) The Board members or the Board's consultant/designee are individually vested with the authority to do the following acts:
 - (a) Conduct Nursing Home Administrator reviews as provided in Rule 1020-01-.14;
 - (b) Review and make determinations on applications for initial licensure, renewal of licensure, and reactivation and reinstatement of licensure subject to the rules governing those respective applications;
 - (c) Decide whether and what type disciplinary actions should be instituted upon complaints received or investigations conducted by the Division; and
 - (d) Decide whether and under what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently considered by the full Board and either adopted or rejected.
- (6) Requests for Certificates of Fitness for licensees desiring to practice in another state must be made in writing to the Board Administrative Office and be accompanied by the fee provided in rule 1020-01-.02(1)(f).
- (7) Requests for duplicate or replacement licenses must be made in writing to the Board Administrative Office and be accompanied by the fee provided in rule 1020-01-.02(1)(e).
- (8) The Executive Officer of the Board shall be responsible for coordination and implementation of Board approved activities, requests or inquiries related to any department, bureau or division of state government.
- (9) Change of Name and/or Address.
 - (a) Change of Address. Each person holding a license who has had a change of address or place of employment, shall file in writing with the Board his current address, giving both old and new addresses. Such requests shall be received in the Board's administrative office no later than thirty (30) days after such change is effective and must reference the individual's name, profession, and license number.
 - (b) Change of Name. An individual registered with the Board shall notify the Board in writing within thirty (30) days of a name change and will provide both the old and new names. A request for name change must also include a copy of the official document involved and reference the individual's profession, board, and license number.
- (10) The Board adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's Administrative office.

(Rule 1020-01-.03, continued)

- (11) Screening Panels - The Board adopts, as if fully set out herein, rule 1200-10-1-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-132, 63-1-142, 63-16-103, 63-16-107, and 63-16-108. **Administrative History:** Original rule certified June 7, 1974. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 13, 1996; effective August 24, 1996. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed April 10, 2000; effective July 1, 2000. Amendment filed July 27, 2006; effective October 10, 2006. Amendment filed March 22, 2007; effective June 5, 2007.

1020-01-.04 APPROVAL OF PROGRAMS OF STUDY.

- (1) Any program of study offered by an educational institution, association, professional society or organization designed especially for the purpose of qualifying applicants for licensure as nursing home administrators is approved by the Board if the program meets all of the following qualifications:
- (a) The program of study includes courses in all the Domains of Practice or their equivalent, including but not limited to:
 - 1. Resident Care and Quality of Life
 - 2. Human Resources
 - 3. Finance
 - 4. Physical Environment and Atmosphere
 - 5. Leadership and Management
 - (b) The program of study must be offered by an accredited university or college, be specifically designed to train and qualify applicants for licensure and meet the academic requirements of the college or university.
 - (c) Effective January 1, 2000, the program of study shall include a 400 hour internship taken for credit and served in a licensed long term care nursing facility.
- (2) The Board may approve a program of study which excludes those subjects required by this rule which are in derogation of, or in conflict with the teachings and practice of any recognized religious faith. Provided, however, any applicant seeking admission to such program of study hereunder shall submit evidence satisfactory to the Board of being in fact an adherent of such recognized religious faith.
- (3) Programs of study will receive certification from the Board in a manner consistent with existing requirements of the Federal Government in order to qualify for federal financial participation.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-105, 63-16-106, 63-16-107(7), 63-16-109, and 63-16-110. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Repeal filed October 22, 1987; effective December 6, 1987. New rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed September 4, 2003; effective November 18, 2003.

1020-01-.05 TEMPORARY LICENSES. The Board may issue temporary licenses under limited circumstances pursuant to T.C.A. § 63-16-104(b).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, and 63-16-104. **Administrative History:** Original rule certified June 7, 1974. Amendment by Public Chapter 969; effective July 1, 1984. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed January 23, 2002; effective April 8, 2002. Amendment filed February 20, 2002; effective May 6, 2002. Repeal and new rule filed September 4, 2003; effective November 18, 2003.

1020-01-.06 PRECEPTORS, ADMINISTRATORS-IN-TRAINING AND ADMINISTRATORS-IN-TRAINING PROGRAMS. A person who intends to qualify for admission to the licensure examination by use of an A.I.T. program must first receive approval to begin the program by complying with rules 1020-01-.07 and 1020-01-.08, and successfully complete the program in a Board approved facility under the coordination, supervision and teaching of a Preceptor who has obtained certification from the Board pursuant to, and continues to meet the qualifications of this rule.

- (1) Preceptor - Qualifications for Certification.
 - (a) The following licensees may apply to receive certification as a Preceptor:
 1. Any administrator; or
 2. Any assistant administrator; or
 3. A multifacility regional administrator. However, the A.I.T. program may be conducted only in facilities over which he or she is the regional administrator.
 - (b) An applicant must obtain from, complete and submit to the Board Administrative Office an application form along with satisfactory documentation of all the following:
 1. Current licensure as a nursing home administrator in Tennessee.
 2. One of the following:
 - (i) Valid licensure and full-time practice as a nursing home administrator for three (3) of the five (5) years immediately preceding application, the final year of practice must have been in Tennessee; or
 - (ii) Valid licensure as a nursing home administrator and employment as an assistant administrator with at least six (6) years of full-time experience in licensed nursing homes in the ten (10) years immediately preceding application.
 3. Successful completion of seventy-two (72) semester hours or its equivalent of college credit. Each one (1) year of full-time experience obtained beyond the three (3) or six (6) year qualifying time period may be substituted for twenty-four (24) semester hours of college credit.
 4. Successful completion of a twelve (12) hour Board approved Preceptor Training and Orientation Course. The course must have been completed within the twelve (12) months immediately preceding certification. These hours may be applied to the annual C.E. requirement.

(Rule 1020-01-.06, continued)

5. Have no formal disciplinary actions taken against the applicant's license within the ten (10) years immediately preceding application which the Board deems to be of such a nature as to prevent the applicant from providing services as a Preceptor.
- (c) An applicant must attend an interview conducted by the Board or a Board member for discussion of basic concepts of the Preceptor Program. A major purpose of the interview will be to evaluate the training effectiveness of the preceptor. The Board may require that the interviews be electronically recorded and transcribed so that there will be no misunderstandings when the Board Member makes a presentation to the entire Board.
 - (d) A preceptor may not supervise more than two (2) A.I.T.'s at one (1) time except by written permission of the Board.
- (2) Preceptor - Continued Certification.
 - (a) To remain certified as a preceptor a licensee must:
 1. on or before December 31st of every year after initial certification, successfully complete nine (9) clock hours of Board approved continuing education within the calendar year in addition to the continuing education hours required for licensure renewal pursuant to rule 1020-01-.12. Credit for six (6) hours of continuing education per year shall be given to a preceptor upon the successful completion of an A.I.T. program; and
 2. hold an active, current and unrestricted license in Tennessee as a Nursing Home Administrator; or
 3. hold an active, current and unrestricted license in another state as a Nursing Home Administrator and submit proof of successful completion of twenty-seven (27) clock hours of NAB-approved continuing education for every year the licensee practiced in another state while his/her Tennessee license was expired or retired.
 - (b) Failure to provide an A.I.T. an opportunity for adequate training under proper supervision in the administrative and operating activities and functions of a facility shall be grounds for discipline of a Preceptor's certification pursuant to T.C.A. § 63-16-108(a)(1) and rule 1020-01-.15.
 - (c) Preceptor certification is subject to disciplinary action in the same manner and for the same causes as that for licensees.
 - (d) When an A.I.T. fails the written licensure examination twice, the preceptor for the A.I.T. may, in the Board's discretion, be required to furnish a written assessment of the reasons for the failure or be required to appear before the Board to make an oral assessment. Failure of a preceptor to provide the written or oral assessment may be grounds for decertification.
 - (3) Administrator-In-Training Program.
 - (a) Facilities - Primary training and supervision of an A.I.T. must occur in one primary facility which is approved by the Board. If the Preceptor and the A.I.T. feel it would be beneficial to have certain areas of the training in a facility other than the primary one, the Preceptor shall notify the Board of the areas to be covered, the time to be spent in the secondary facility and the reasons. All facilities to be used must be approved in

(Rule 1020-01-.06, continued)

advance and in writing. The facility must obtain from, complete and submit to the Board Administrative Office an application form and documentation sufficient to show the following:

1. An organizational structure with clearly defined and staffed departments, each with a designated department head. Those departments must include:
 - (i) Administration;
 - (ii) Nursing;
 - (iii) Dietary;
 - (iv) Social services and activities;
 - (v) Medical records; and
 - (vi) Housekeeping, maintenance and laundry.
 2. That the administrator serves as the department head of only the administration department of the facility.
 3. The absence of outstanding operational deficiencies.
 4. The most recent facility licensure survey and the plan of correction in response thereto.
- (b) A.I.T. Program - Structure and Content. The A.I.T. programs must be conducted in Board approved facilities. The Preceptor must be either the administrator, assistant administrator or regional administrator of the primary facility. The program must comply with the following:
1. Prior to commencement of the A.I.T. program, a form must be obtained from, completed and submitted to the Board Administrative Office which contains all the following:
 - (i) Approval of the preceptor by the A.I.T. as evidenced by signature of both the Preceptor and A.I.T.;
 - (ii) The beginning date of the program;
 - (iii) The dates on which required reports are to be filed; and
 - (iv) The anticipated date of the A.I.T.'s completion of the program.
 2. The A.I.T. program shall cover a period of at least six (6) months during which period the A.I.T. shall devote full time and effort toward completion of the program. Should the A.I.T. spend less than full time, thus requiring more than six (6) months to complete, there must be prior written approval of the Board. The reasons for the delay shall be explained in writing by the Preceptor. Under no circumstances shall the program extend beyond one (1) year.
 3. The preceptor and the A.I.T. shall spend a minimum of four (4) hours per week in orientation, direct instruction, planning and evaluation. The minimum four (4) hours per week of training must occur in person in the facility or facilities approved by the Board for that individual's A.I.T. program.

(Rule 1020-01-.06, continued)

4. It shall be the responsibility of the preceptor to continually evaluate the development and experience of the A.I.T. to determine specific areas needed for concentration.
 5. A preceptor shall use the Board approved workbook as the basic guide. There shall be a pre-training assessment. If deemed advisable, additional material may be added to the basic guide to individually meet the needs of the A.I.T. While the basic guide may be expanded, no areas of the basic guide may be omitted.
 6. The preceptor and the A.I.T. shall submit reports on Board provided forms according to the following schedule:
 - (i) Every two (2) months after its commencement; and
 - (ii) A final report shall be submitted which contains a recommendation on licensure from the preceptor.
- (c) General Rules for A.I.T. Programs.
1. Change of Preceptor.
 - (i) If the approved preceptor is unable, for any reason, to fulfill the approved program of an A.I.T., a new preceptor shall be obtained as soon as possible, but no more than sixty (60) days from the date the A.I.T. first obtained knowledge that the training under the previous preceptor would be discontinued. In special circumstances the Board, upon application, may authorize additional time in which a new preceptor may be secured.
 - (ii) In the event an A.I.T. desires to secure a preceptor different from the one approved by the Board, the new preceptor and the A.I.T. shall notify the Board stating the reasons. New agreement forms shall be completed, signed by the new preceptor and the A.I.T., and be submitted to the Board Administrative Office for approval prior to continuing training.
 2. It shall be the duty of both the preceptor and the A.I.T. to notify the Board if the A.I.T. drops out of the program.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-106 and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 12, 1982; effective December 13, 1982. Amendment filed February 3, 1983; effective March 7, 1983. Amendment filed April 19, 1984; effective May 19, 1984. Amendment filed February 23, 1987; effective April 9, 1987. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed January 4, 1989; effective February 18, 1989. Amendment filed August 14, 1989; effective September 28, 1989. Amendment filed September 8, 1989; effective October 23, 1989. Amendment filed February 21, 1991; effective April 7, 1991. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed January 19, 2001; effective April 5, 2001. Amendment filed September 4, 2003; effective November 18, 2003. Amendment filed December 9, 2005; effective February 22, 2006. Amendment filed July 27, 2006; effective October 10, 2006.

1020-01-.07 QUALIFICATIONS FOR LICENSURE. To practice as a nursing home administrator in Tennessee, a person must possess a lawfully issued license from the Board. Paragraphs (2) through (8) of this rule describe the seven (7) ways/categories to obtain licensure as a nursing home administrator. Combining requirements from different categories is not permitted, and will not constitute completion of licensure requirements. In addition to the requirements of this rule all applicants, regardless of which category is used, must successfully complete the examinations required in rule 1020-01-.10 Examinations.

(Rule 1020-01-.07, continued)

- (1) "Acceptable Management Experience," as used in this rule, means the actual practice of health care facility administration in an inpatient health care facility with guidance and sharing of responsibility from the administrator and not related to the role of an administrative clerk. "Acceptable management experience" contemplates experience in all departments or areas of the facility, provided however, that this term is not to be construed to require that the applicant have spent the entire number of years of "acceptable management experience" referred to in paragraphs (6) and (7) of this rule in the capacity of an assistant administrator. Responsible supervisory experience in various departments within the facility may be applied to meet the requirements of paragraphs (6) and (7) of this rule, and the time spent in a board approved Administrator-In-Training (A.I.T.) program may also be counted toward these requirements. However, no more than two-thirds (2/3) of the required "acceptable management experience" can be obtained in any one area of the facility, e.g., in dietary, nursing, financial, etc.
- (2) Licensure by examination - A baccalaureate, masters, or doctorate degree in the area of Health Care Administration from an accredited college or university is required. The curriculum shall include a four hundred (400) hour internship taken for credit and served in a licensed long term care nursing facility.
- (3) Licensure by experience and education as a hospital administrator combined with a Limited Administrator-in-Training (A.I.T.) program – A baccalaureate, masters or doctorate degree from an accredited college and a four hundred (400) hour Board-approved A.I.T. program to be completed in no less than three (3) months and no more than six (6) months combined with a minimum of five (5) of the last seven (7) years as the chief executive officer of a licensed hospital is required. This individual is appointed by the governing authority and is responsible to it for the executive management of the organization according to the mission, goals and objectives that have been adopted.
 - (a) The administrator must develop an organizational structure to provide the patient care services that are offered by the facility which is consistent with the mission and meets all applicable legal, licensure and accreditation requirements; assure that appropriate mechanisms are in place for an organized medical staff and (if applicable) a volunteer organization; also oversee long range planning and possibly even joint ventures. The individual must work with community, county and state governmental agencies on a wide variety of topics.
 - (b) In a multi-hospital organization, the chief executive officer may be directly responsible to a corporate official and may have a local advisory board or other consultative group.
- (4) Licensure by experience and education as an assistant/associate hospital administrator combined with a Limited Administrator-in-Training (A.I.T.) program – A baccalaureate, masters or doctorate degree from an accredited college and a four hundred (400) hour Board-approved A.I.T. program to be completed in no less than three (3) months and no more than six (6) months combined with a minimum of five (5) of the last seven (7) years as the chief operating officer of a licensed hospital is required. This individual is appointed by the chief executive officer, usually with the concurrence of the governing authority.
 - (a) The assistant/associate administrator is directly responsible for the operation of several hospital departments and assists the administrator, as assigned, in other executive management functions. The individual must work with community, county and state governments on a wide variety of topics.
 - (b) The assistant/associate administrator is "in charge" of the facility during the absence of the administrator and must follow its mission, goals and objectives that have been adopted.

(Rule 1020-01-.07, continued)

- (5) Licensure by education combined with an Administrator-In-Training (A.I.T.) program - A baccalaureate, masters or doctorate degree from an accredited college combined with a Board approved A.I.T. program of at least six (6) months is required.
- (6) Licensure by education and experience combined with an Administrator-In-Training (A.I.T.) program - An associate degree and three (3) years of acceptable management experience in a licensed long term care facility combined with a Board approved A.I.T. program of at least six (6) months is required.
- (7) Licensure by experience combined with continuing education and an Administrator-In-Training (A.I.T.) program – Five (5) years of acceptable management experience and a four hundred (400) hour Board-approved A.I.T. program to be completed in no less than three (3) months and no more than six (6) months combined with fifty (50) clock hours of Board approved continuing education in nursing home administration is required.
 - (a) The fifty (50) clock hours of continuing education shall be a prerequisite to the A.I.T. program.
 - (b) The fifty (50) clock hours of continuing education must have been presented in the traditional “lecture / classroom” format. Courses that use any of the presentation methods in part (3) (c) 1. of Rule 1020-01-.12 shall not be allowed.
 - (c) The fifty (50) clock hours of continuing education must have begun within twenty-four (24) months immediately prior to approval of the A.I.T. Program.
- (8) Licensure by reciprocity - An active license as a nursing home administrator in another state is required.
 - (a) This individual must demonstrate to the Board’s satisfaction that he/she has successfully completed requirements which are substantially equivalent to or exceed the requirements of paragraphs (2), (3), (4), (5), (6), or (7) of this rule; or
 - (b) This individual must demonstrate to the Board’s satisfaction that he/she has successfully completed requirements which are substantially equivalent to or exceed the requirements for certification by the American College for Health Care Administrators.
- (9) An applicant who chooses to qualify for licensure by meeting the requirements of paragraphs (5), (6), or (7) of this rule must obtain Board approval to begin the A.I.T. program.
 - (a) Successful completion of the A.I.T. program as governed by rule 1020-01-.06 is a prerequisite to approval to take the licensure examination.
 - (b) The time an applicant spends in the A.I.T. program may be credited toward the last six (6) months needed to meet the “acceptable management experience” requirement for admission to the examination.
 - (c) The Board shall concurrently determine eligibility for both admission to the examination and commencement of the A.I.T. program upon review of both applications.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-105, 63-16-106, and 63-16-109.
Administrative History: Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Amendment filed November 12, 1982; effective December 13, 1982. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed August 14, 1989; effective September 28, 1989. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule

(Rule 1020-01-.07, continued)

filed December 14, 1999; effective February 27, 2000. Repeal and new rule filed September 4, 2003; effective November 18, 2003. Amendment filed July 23, 2010; effective October 21, 2010.

1020-01-.08 PROCEDURES FOR LICENSURE.

- (1) An applicant shall obtain an examination or an A.I.T. program application from the Board Administrative Office or from the Board's Internet website (tennessee.gov), and respond truthfully and completely to every question. The applicant is responsible for obtaining and submitting the required documentation, or causing it to be submitted, to the Board Administrative Office.
- (2) An applicant must submit the application along with the non-refundable application, jurisprudence examination and state regulatory fees as provided in rule 1020-01-.02.
- (3) Unless the applicant is applying for licensure as provided in paragraphs (2), (5) or (6) of Rule 1020-01-.07, an applicant must submit proof of graduation from high school or its equivalent.
- (4) An applicant shall submit with his application a "passport" style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application. Photocopies are not accepted.
- (5) An applicant must submit two (2) original reference letters attesting to the applicant's good moral character on the signator's professional letterhead. Photocopies are not accepted.
- (6) An applicant shall submit proof of United States citizenship or evidence of being legally entitled to live in the United States. Such evidence may include a notarized copy of a birth certificate, or naturalization papers, or current visa status.
- (7) If the applicant is applying for licensure as provided in paragraphs (2), (5) or (6) of Rule 1020-01-.07, the applicant shall cause a transcript to be sent directly to the Board Administrative Office from the educational institution that awarded the degree. Transcripts that state "issued to student" will not be accepted.
- (8) If the applicant is applying for licensure as provided in paragraphs (3), (4) (6) or (7) of Rule 1020-01-.07, a resume must be submitted with the application. The resume must state the dates of employment, name of facility, job title and job duties.
- (9) If the applicant is applying for licensure by reciprocity, as provided in paragraph (8) of rule 1020-01-.07, he/she must submit directly to the Board Administrative Office from each state licensing board from which licensure has ever been issued documentation which indicates the applicant either holds a current active license and whether it is in good standing, or held a license which is currently inactive and whether it was in good standing at the time it became inactive. An active license as a nursing home administrator in another state is required for licensure by reciprocity.
- (10) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - (b) The denial of licensure application by any other state or the discipline of licensure in any other state.
 - (c) Failure of any licensure examination.

(Rule 1020-01-.08, continued)

- (11) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-106 and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Amendment filed November 12, 1982; effective December 13, 1982. Amendment filed February 21, 1986; effective May 13, 1986. Amendment filed January 4, 1989; effective February 18, 1989. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Repeal and new rule filed September 4, 2003; effective November 18, 2003. Amendment filed March 17, 2006; effective May 31, 2006. Amendment filed July 27, 2006; effective October 10, 2006.

1020-01-.09 APPLICATION REVIEW, APPROVAL, DENIAL, AND INTERVIEWS. Review and decisions on applications shall be governed by the following:

- (1) Upon receipt of an incomplete application, the Board Administrative Office shall notify the applicant of the information required. The applicant shall submit the requested information to the Board Administrative Office on or before the forty-fifth (45th) day after the notification is sent. If the requested information is not received by the Board Administrator within the forty-five (45) days, the application file shall be closed and the applicant notified that the Board will not take further action regarding the application. In order to resume the application process, a new application must be received, including another payment of all fees.
- (2) Completed applications received in the Board Administrative Office may be submitted to a Board member or a Board designee for review. An initial determination to allow practice to commence may be made prior to the next Board meeting after the application is received. Each member of the Board and the Board's designee is vested with the authority to make these initial determinations.
- (3) If the full Board denies licensure, the action shall become final and the following shall occur:
 - (a) Notification of the denial shall be sent by the Board Administrative Office by certified mail, return receipt requested, containing all the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act, T.C.A. § 4-5-301, et seq.
 1. An applicant has a right to a contested case hearing only if the licensure denial was based on subjective or discretionary criteria.
 2. An applicant may be granted a contested case hearing if licensure denial is based on objective, clearly defined criteria and denial is based on a genuine issue of fact and/or law.
- (4) Applicants may be required to present themselves to the Board for oral examination.
- (5) Approval of an application may be withheld or restricted for violation of the provisions of T.C.A. § 63-16-108 and any rules promulgated pursuant thereto or failure to fully comply with all application requirements.

Authority: T.C.A. §§4-5-102(3), 4-5-202, 4-5-204, 63-1-142, 63-16-103, 63-16-103(l) through 63-16-103(8), 63-16-104, 63-16-105, 63-16-106(a), 63-16-107(c), 63-16-107(d), 63-16-108, and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 28, 1983; effective

(Rule 1020-01-.09, continued)

May 31, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed May 9, 1991; effective June 22, 1991. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed September 4, 2003; effective November 18, 2003.

1020-01-.10 EXAMINATIONS.

- (1) NAB Examination. Except for individuals applying for licensure by reciprocity, all applicants must first receive Board approval to take the examination. Applicants must attempt to successfully complete the NAB examination within one (1) year from when Board approval to take the examination was granted. Successful completion of the examination is required before licensure is granted. The licensure examination process shall be governed by the following:
 - (a) Access to the Examination. To be admitted to the licensure examination an applicant must:
 1. Fully comply with rules 1020-01-.07 and 1020-01-.08; and
 2. Receive approval of the Board to take the examination.
 - (b) The Examination.
 1. The Board approves the subjects, scope, content and format of the NAB examination and adopts the examination as the licensure examination for Tennessee applicants.
 2. Passing scores and grading processes are determined by NAB. Such passing scores as certified to the Board are adopted by the Board as constituting successful completion of the licensure examination.
 3. Applicants who fail to successfully complete the examination on the initial attempt may apply to retake it by complying with the requirements stated in subparagraph (1) (a) of this rule.
 4. Applicants who fail twice to successfully complete the examination shall do the following before each subsequent retaking:
 - (i) Complete an additional A.I.T. program which emphasizes training in the deficient areas and is at least three (3) months in length; or
 - (ii) Submit to the Board for approval an education and training program as an alternative to the additional A.I.T. program. Any alternative education and training program must be approved by the Board prior to the applicant beginning such program, and must be successfully completed before retaking the examination.
 5. Applicants who fail twice to successfully complete the examination may, in the Board's discretion, be required to furnish a written opinion of his/her reasons for the failure or may be required to appear before the Board to deliver an oral opinion. Failure of an applicant to provide the written or oral opinion shall cause the licensure application to be closed.
- (2) Jurisprudence Examination. All applicants for licensure must successfully complete the Board's jurisprudence examination as a prerequisite to licensure.

(Rule 1020-01-.10, continued)

- (a) When an applicant has become eligible for licensure and has submitted the Jurisprudence Examination Fee as provided in rule 1020-01-.02 (1) (g), the Board shall send notification of such eligibility and the jurisprudence examination to the applicant.
- (b) The examination must be completed and returned to the Board Administrative Office before the expiration of ninety (90) days from the date of notification of eligibility, or the applicant shall forfeit such eligibility and must begin the licensure process over.
- (c) The scope, format, and content of the examination shall be determined by the Board but limited to statutes and rules governing practices and facilities.
- (d) Correctly answering ninety percent (90%) of the examination questions shall constitute a passing score and successful completion of the jurisprudence exam. Applicants who fail to achieve a passing score on the examination may apply to retake it by written request to the Board Administrative Office and payment of the Jurisprudence Examination Fee as provided in rule 1020-01-.02 (1) (g).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-105, and 63-16-106. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. New rule filed December 30, 1983; effective January 29, 1984. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed January 4, 1989; effective February 18, 1989. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed February 20, 2002; effective May 6, 2002. Amendment filed September 4, 2003; effective November 18, 2003. Amendment filed March 22, 2007; effective June 6, 2007. Amendment filed July 23, 2010; effective October 21, 2010.

1020-01-11 LICENSURE RENEWAL. All persons licensed by the Board must renew their licenses to be allowed to lawfully continue in practice. The due date for renewal is the last day of the month in which a licensee's birthdate falls, pursuant to the Division's biennial birthdate renewal system, shown as the expiration date on renewal certificates.

- (1) Methods of Renewal
 - (a) Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - (b) Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (2) To be eligible for licensure renewal, a licensee must submit to the Board Administrative Office on or before the due date for renewal all the following:
 - (a) A completed Board licensure renewal form.
 - (b) The Renewal Fee as provided in rule 1020-01-.02(1)(b).
 - (c) The State Regulatory Fee as provided in rule 1020-01-.02(1)(c).
- (3) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.

(Rule 1020-01-.11, continued)

- (4) Reinstatement of an Expired License. Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:
 - (a) At the discretion of the Board, either appear before it or submit a notarized statement setting forth the cause for failure to renew; and
 - (b) Payment of all past due Renewal Fees and State Regulatory Fees; and
 - (c) Payment of the Late Renewal Fee provided in rule 1020-01-.02 (1) (d); and
 - (d) Compliance with the continuing education requirements of rule 1020-01-.12; and
 - (e) If expiration was a result of failure to comply with T.C.A. § 63-16-107(e) and rule 1020-01-.14, submit documentation of successful completion of the conditions imposed by the Board as a result of any disciplinary action or settlement pursuant to rule 1020-01-.14 or rule 1020-01-.15.
- (5) Any licensee who fails to renew licensure prior to the expiration of the second (2nd) year after which renewal is due must, in addition to completing the requirements of paragraph (4) of this rule, reapply for, take and pass the nursing home administration examinations pursuant to rule 1020-01-.10. If continuously and actively practicing in another state as a licensed nursing home administrator, reinstatement may be accomplished upon meeting the following conditions:
 - (a) Compliance with paragraph (2) of rule 1020-01-.08; and
 - (b) Compliance with paragraph (4) of this rule.
- (6) Renewal issuance decisions pursuant to this rule may be made administratively or upon review by any Board member.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-16-103, 63-16-104, 63-16-107, 63-16-108, and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 19, 1995; effective September 2, 1995. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed January 19, 2001; effective April 5, 2001. Amendment filed August 6, 2002; effective October 20, 2002. Amendment filed September 4, 2003; effective November 18, 2003.

1020-01-.12 CONTINUING EDUCATION. Although licensure renewal is required on a biennial basis, all licensees must attend and complete the continuing education requirements of this rule annually, on a calendar year basis, as a prerequisite to licensure renewal.

- (1) Hours Required.
 - (a) All licensees must attend and complete eighteen (18) clock hours of Board approved continuing education within every calendar year.
 - (b) For new licensees, submitting proof of successful completion of the NAB licensure examination shall be considered proof of sufficient preparatory education to constitute continuing education clock hour credit for the length of time already transpired in the calendar year in which the applicant is approved.
 1. For purposes of the requirement set out in subparagraph (1) (a) of this rule, credit for the length of time already transpired shall be calculated at the rate of four and a half (4½) clock hours per quarter-calendar year.

(Rule 1020-01-.12, continued)

2. The provisions of this subparagraph shall apply to all new licensees, including new licensees who have been approved pursuant to rule 1020-01-.08.
 - (c) The Board approves courses for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a calendar year toward the required annual hours regardless of the number of times the course is attended or completed by any individual licensee.
 - (d) Waiver or Extension of Continuing Education Requirements.
 1. The Board may grant a waiver of the need to attend and complete the required clock hours of continuing education or the Board may grant an extension of the deadline to complete the required clock hours of continuing education if it can be shown that compliance is beyond the physical or mental capabilities of the person seeking the waiver.
 2. Waivers or extension of the deadline will be considered only on an individual basis and may be requested by submitting the following items to the Board Administrative Office prior to the expiration of the calendar year (December 31) in which the continuing education is due:
 - (i) A written request for a waiver or deadline extension which specifies which requirements are sought to be waived or which deadline is sought to be extended, and a written and signed explanation of the reason for the request; and
 - (ii) Any documentation which supports the reason(s) for the waiver or deadline extension requested or which is subsequently requested by the Board.
 3. A waiver or deadline extension approved by the Board is effective only for the calendar year for which either is sought.
- (2) Documentation of Compliance:
- (a) The due date for completion of the annual clock hours required in subparagraph (1) (a) of this rule is December 31st of each year.
 - (b) Each licensee must retain proof of attendance and completion of all continuing education requirements of this rule and subparagraph (2) (a) of rule 1020-01-.06. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was required. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.
 - (c) The individual must, within thirty (30) days of a request from the board, provide evidence of continuing education activities. Certificates verifying the individual's attendance or original letters from course providers are such evidence.
- (3) Course Approval.
- (a) Courses offered for credit toward the required continuing education hours must either have received approval from the National Continuing Education Review Service of NAB, or be courses provided by organizations requesting and receiving approval from the Board based on the following criteria:

(Rule 1020-01-.12, continued)

1. The organization's experience in providing education in the nursing home or health care field;
 2. The organization's ability to provide appropriate subject material and instruction. The material must be directly related to the duties and responsibilities of a nursing home administrator and be in one or more of the Domains of Practice;
 3. The organization's ability to provide regular or on-going instruction for licensees on a state-wide basis; and
 4. The organization's commitment to provide evidence, at the request of the Board, of the licensee's attendance at the program. A synopsis of each program will be filed with the Board.
- (b) Courses relating to any of the Domains of Practice offered by accredited colleges, universities or community colleges are approved for credit toward the continuing education requirements. Every three (3) semester hours or equivalent quarter hours shall be the equivalent of eighteen (18) clock hours of continuing education. No credit shall be allowed for courses failed according to the institutions' grading determinations.
- (c) Multi-Media courses may be taken for continuing education credit.
1. Multi-Media courses may include courses utilizing:
 - (i) The Internet
 - (ii) Closed circuit television
 - (iii) Satellite broadcasts
 - (iv) Correspondence courses
 - (v) Videotapes
 - (vi) CD-ROM
 - (vii) DVD
 - (viii) Teleconferencing
 - (ix) Videoconferencing
 - (x) Distance learning
 2. A maximum of twelve (12) credit hours may be granted for multi-media courses during each calendar year.
- (4) Violations.
- (a) Any licensee who fails to obtain the required continuing education hours may be subject to disciplinary action pursuant to rule 1020-01-.15.
 - (b) Education hours obtained as a result of any of the following shall not be credited toward the continuing education hours required to be obtained by the end of any calendar year:

(Rule 1020-01-.12, continued)

1. Compliance with informal settlements pursuant to rule 1020-2-.15;
2. Compliance with Board Orders in any disciplinary action; and
3. Compliance with proposed settlements for obtaining an "affirmative finding" pursuant to rule 1020-01-.14.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103 and 63-16-107. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed April 10, 2000; effective July 1, 2000. Amendment filed January 19, 2001; effective April 5, 2001. Amendment filed January 23, 2002; effective April 8, 2002. Amendment filed July 27, 2006; effective October 10, 2006.

1020-01-.13 LICENSURE RETIREMENT AND REACTIVATION.

- (1) Licensees who wish to retain their licenses but not actively practice may avoid administrative revocation of licensure and/or compliance with the licensure renewal process and continuing education requirements by doing the following:
 - (a) Obtain from, complete and submit to the Board Administrative Office an affidavit of retirement form; and
 - (b) Submit any documentation which may be required by the form to the Board Administrative Office.
- (2) Any licensee whose license has been retired may reenter active practice by doing the following:
 - (a) Submit a written request for licensure reactivation to the Board Administrative Office;
 - (b) Pay the Licensure Renewal Fee and State Regulatory Fee as provided in rule 1020-01-.02(1)(b) and (c). If retirement was pursuant to rule 1020-01-.11(5), and reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Board may require payment of the Late Renewal Fee and past due Renewal Fees and State Regulatory Fees as provided in rule 1020-01-.02(1)(b), (c) and (d);
 - (c) Submit, along with the reactivation request, proof of certification of attendance and completion of the following:
 1. At least twenty-seven (27) clock hours of Board approved continuing education as a prerequisite to licensure reactivation, if the licensee applies for reactivation of a retired license before the expiration of five (5) years from the date of retirement; or
 2. At least fifty (50) clock hours of Board approved continuing education as a prerequisite to licensure reactivation, if the licensee applies for reactivation of a retired license after the expiration of five (5) years from the date of retirement; or
 3. The continuing education required by parts 1. or 2. if the licensee is licensed in good standing and actively practicing in another state whose continuing education requirements do not meet or exceed the Board's continuing education requirements. If licensed in good standing and actively practicing in another state whose continuing education requirements meet or exceed the Board's requirements, a licensee may apply for reactivation without submitting proof of completing the continuing education required by parts 1. or 2.

(Rule 1020-01-.13, continued)

- (d) The continuing education hours completed as a prerequisite to licensure reactivation shall not be credited toward the continuing education hours required to be completed by the end of the calendar year of reactivation.
 1. Submitting proof of successful completion of the requirements in subparagraph (2) (c) of this rule shall be considered proof of sufficient continuing education to constitute continuing education clock hour credit for the length of time already transpired in the calendar year in which the license is reactivated.
 2. Such credit shall be calculated at the rate of four and a half (4½) clock hours per quarter-calendar year.
- (3) Anyone retiring and then reactivating a license must remain in “active status” and may not retire again until the expiration of one (1) renewal cycle.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, and 63-16-107. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 12, 1982; effective December 13, 1982. Amendment filed January 13, 1986; effective February 27, 1987. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed August 14, 1989; effective September 28, 1989. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 14, 1994; effective August 28, 1994. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed April 10, 2000; effective July 1, 2000. Amendment filed December 9, 2005; effective February 22, 2006.

1020-01-.14 107(e) ADMINISTRATOR REVIEW. Any licensee who has engaged in the practice of nursing home administration in a facility reported by the Commissioner of the Department of Health pursuant to T.C.A. §§ 68-11-201, et seq., and 63-16-107(e) for the year immediately preceding the reporting shall be subject to the following review process:

- (1) All administrators shall be required to complete and document a Board approved questionnaire. Said questionnaire shall be considered part of the information required for review pertaining to the quality of care rendered at the administrator’s facility pursuant to T.C.A. § 63-16-107(e).
- (2) The Board Consultant is authorized to take the following actions regarding the administrators to be reviewed pursuant to T.C.A. § 63-16-107(e). However, all final actions shall be submitted to the full Board for approval.
 - (a) Review all documents compiled by the agencies.
 - (b) Recommend that an “affirmative finding” be made as to any administrator reviewed.
 - (c) Recommend that “no affirmative finding” be made as to any administrator reviewed.
 - (d) Propose a course of action to be taken by an administrator who receives a negative finding recommendation which, if taken, would result in a recommendation of an “affirmative finding”.
 - (e) Recommend disciplinary action be instituted and any terms which would be acceptable to reach an informal or negotiated settlement in lieu of a contested case.
- (3) The Board shall review the Board Consultant’s recommendations for “affirmative findings” and, if approved, a notice of the Board action shall be sent to the administrator involved.

(Rule 1020-01-.14, continued)

- (4) The Board shall not consider the Board Consultant's recommendations other than "affirmative findings" until such time as all legal requirements or obligations are met as to those recommendations which might result in a contested case hearing before the Board.
- (5) The Board Consultant is authorized to do any of the following acts in an effort to resolve any of the cases under review:
 - (a) Authorize the issuance of an "affirmative finding" in those cases in which the administrator has acted in a manner consistent with the policy statement of rule 1020-01-.16(1);
 - (b) Make direct contact with any administrator under review for purposes of issue clarification after first notifying the administrator of the right to consult with an attorney; or
 - (c) Recommend that an administrator, for whom an "affirmative finding" could not be made, obtain continuing or additional education or training in specific areas within a specific amount of time in an effort to justify the issuance of an "affirmative finding" or an Agreed Order thereby informally or otherwise settling the matter. Any education completed under this subparagraph shall not be included as part of the annual continuing education hours required by rule 1020-01-.12.
- (6) Upon all legal requirements and obligations being met and a recommendation from the Board Consultant that an "affirmative finding" cannot be made, a notice of that recommendation shall be sent to the administrator involved. He shall also be notified of any and all rights available to him for review of that recommendation before the Board.
 - (a) If the administrator does not pursue his review rights within thirty (30) days of receipt of notice thereof the matter will be referred to the board for approval of the recommendation at which time it shall become a final action of the board.
 - (b) If an administrator requests a hearing pursuant to subparagraph (6)(a) a Notice of Hearing shall be issued alleging the facts and violations of the Nursing Home Administrator's Practice Act and the fact that disciplinary actions may be taken when the matter is addressed as a contested case hearing.
- (7) Administrators subject to review shall not be allowed to renew their licenses until one of the following has occurred:
 - (a) An "affirmative finding" letter has been authorized by the Board; or
 - (b) Any requested contested case hearing is concluded subject to the provisions of T.C.A. § 4-5-320.
- (8) Any administrator who by final action of the Board has not been allowed to renew licensure pursuant to this rule may not engage in the practice of nursing home administration at any time until complying with all statutes and rules governing initial licensure. The Board may consider the action taken under this rule in determining whether the person is qualified for licensure.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-103(4), 63-16-103(5), 63-16-103(8), 63-16-107, and 63-16-107(e). **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed January 4, 1989; effective February 18, 1989. Amendment filed July 19, 1990; effective September 2, 1990. Amendment filed February 21, 1991; effective April 7, 1991. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000.

1020-01-.15 LICENSURE DISCIPLINE, CIVIL PENALTIES, ASSESSMENT OF COSTS, AND SUB-POENAS.

- (1) Acts or omissions of or by an applicant or licensee which may, within the context of the policy statement of rule 1020-01-.16, constitute “unfitness” or “incompetence” in the practice of nursing home administration, as those terms are used in T.C.A. § 63-16-108(a)(1) for which disciplinary action and licensure or licensure renewal denial are authorized, include but are not limited to the following:
 - (a) Failure to comply with all continuing education requirements of rule 1020-01-.12.
 - (b) Intentionally or negligently allowing abuse or neglect of a resident or placing a resident in a situation where abuse or neglect, as those terms are defined in T.C.A. § 71-6-102(1), is occurring or is likely to occur.
 - (c) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants in such manner as to adversely affect the person’s ability to practice nursing home administration.
 - (d) Unauthorized use or unauthorized removal of narcotics, drugs, supplies or equipment from any health care facility or other work place location.
 - (e) Impersonating another licensed nursing home administrator.
 - (f) Permitting or allowing another person to use the licensee’s license for the purpose of nursing home administration.
 - (g) Revocation or suspension or other disciplinary action taken with respect to a license to practice nursing home administration by another state or territory of the United States or any act or omission which would constitute grounds for the revocation, suspension or other disciplinary action with respect to a license in this state.
 - (h) Practicing nursing home administration in this state on a lapsed state license or beyond the period of a valid temporary license.
 - (i) Failure to notify the appropriate licensure board of the unethical or illegal practice of any health care professional or provider of which the administrator has direct knowledge or responsibility.
 - (j) Violation of any lawful order of the Board.
 - (k) Making false statements or representations in obtaining a license to practice nursing home administration.
 - (l) Willfully or repeatedly violating any of the provisions of the laws of the State of Tennessee governing licensure of nursing homes or any of the rules promulgated pursuant thereto.
- (2) Upon a finding by the Board that a licensee has violated any provision of the Tennessee Nursing Home Administrator Practice Act (T.C.A. §§ 63-16-101, et seq.) or the rules promulgated pursuant thereto, the Board may impose any of the following actions separately or in any combination which is deemed appropriate to the offense:
 - (a) Private Censure. A written action issued to the licensee for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.

(Rule 1020-01-.15, continued)

- (b) Public Censure or Reprimand. A written action issued to a licensee for a single episode or less severe violations. It is a formal disciplinary action.
 - (c) Probation. A formal disciplinary action which places a licensee on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict the licensee's activities during the probationary period.
 - (d) Licensure Suspension. A formal disciplinary action which suspends a licensee's right to practice for a fixed period of time. It contemplates the reentry of the licensee into practice under the license previously issued.
 - (e) Licensure Revocation. The most severe form of disciplinary action which removes a licensee from practice and terminates the license previously issued. It relegates the violator to the status possessed prior to application for licensure. However, the Board may allow the reinstatement of a revoked license upon conditions and after a period of time it deems appropriate. No petition for reinstatement and no new application for licensure from a person whose license has been revoked shall be considered prior to the expiration of at least one (1) year.
 - (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:
 - 1. During any period of probation, suspension; or
 - 2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or
 - 3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or
 - 4. As a stand-alone requirement(s) in any disciplinary order.
 - (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (5) of this rule.
 - (h) Once ordered, probation, suspension, revocation, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties assessed have been paid.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
- (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or

(Rule 1020-01-.15, continued)

2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(Rule 1020-01-.15, continued)

(c) Form Petition

Petition for Order of Compliance
Board of Examiners for Nursing Home Administrators

Petitioner's Name: _____
 Petitioner's Mailing Address: _____

 Petitioner's E-Mail Address: _____
 Telephone Number: _____

Attorney for Petitioner: _____
 Attorney's Mailing Address: _____

 Attorney's E-Mail Address: _____
 Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _ day of _____, 20____.

Petitioner's Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been

(Rule 1020-01-.15, continued)

either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(Rule 1020-01-.15, continued)

(c) Form Petition

Petition for Order Modification
Board of Examiners for Nursing Home Administrators

Petitioner's Name: _____
 Petitioner's Mailing Address: _____

 Petitioner's E-Mail Address: _____
 Telephone Number: _____

 Attorney for Petitioner: _____
 Attorney's Mailing Address: _____

 Attorney's E-Mail Address: _____
 Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _ day of _____, 20_____.

Petitioner's Signature

(5) Civil Penalties.

(a) The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134.

(b) Schedule of Civil Penalties.

1. A Type A Civil Penalty may be imposed whenever the Board finds a person who is required to be licensed or certified by the Board guilty of a willful and knowing violation of the Practice Act, or regulations promulgated pursuant thereto, to such an extent that there is or is likely to be an imminent, substantial threat to the public. For purposes of this section willfully and knowingly practicing as a nursing home administrator without a license from the Board is one of the violations of

(Rule 1020-01-.15, continued)

the Nursing Home Administrators Practice Act for which a Type A Civil Penalty is assessable.

2. A Type B Civil Penalty may be imposed whenever the Board finds a person required to be licensed by the Board is guilty of a violation of the Nursing Home Administrators Practice Act or regulations promulgated pursuant thereto in such manner as to impact directly on the care of patients or the public.
3. A Type C Civil Penalty may be imposed whenever the Board finds a person required to be licensed by the Board is guilty of a violation of the Nursing Home Administrators Practice Act or regulations promulgated pursuant thereto, which is neither directly detrimental to the patients or public, nor directly impacts their care, but has only an indirect relationship to patient care or the public.
4. Each day a violation continues to occur shall constitute a separate violation.

(c) Amount of Civil Penalties.

1. Type A Civil Penalties may be assessed in the amount of not less than \$500 nor more than \$1,000.
2. Type B Civil Penalties may be assessed in the amount of not less than \$100 nor more than \$500.
3. Type C Civil Penalties may be assessed in the amount of not less than \$50 nor more than \$100.

(d) Procedure for Assessing Civil Penalties.

1. The Division may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges.
2. Civil Penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the Board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and,
 - (v) The interest of the public.

(Rule 1020-01-.15, continued)

- (6) All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of the Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq.
- (7) The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.
- (8) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-16-115.
- (9) Subpoenas
 - (a) Purpose - Although this rule applies to persons and entities other than nursing home administrators, it is the Board's intent as to nursing home administrators that they be free to comprehensively treat and document treatment of their residents without fear that the treatment or its documentation will be unduly subjected to scrutiny outside the profession. Consequently, balancing that intent against the interest of the public and patients to be protected against substandard care and activities requires that persons seeking to subpoena such information and/or materials must comply with the substance and procedures of these rules.

It is the intent of the Board that the subpoena power outlined herein shall be strictly proscribed. Such power shall not be used by the division or board investigators to seek other incriminating evidence against nursing home administrators when the division or board does not have a complaint or basis to pursue such an investigation. Thus, unless the division or its investigators have previously considered, discovered, or otherwise received a complaint from either the public or a governmental entity, then no subpoena as contemplated herein shall issue.

- (b) Definitions - As used in this chapter of rules the following words shall have the meanings ascribed to them:
 1. Probable Cause
 - (i). For Investigative Subpoenas - shall mean that probable cause, as defined by case law at the time of request for subpoena issuance is made, exists that a violation of nursing home administrator statutes or rules promulgated pursuant thereto has occurred or is occurring and that it is more probable than not that the person(s), or items to be subpoenaed possess or contain evidence which is more probable than not relevant to the conduct constituting the violation.
 - (ii) The utilization of the probable cause evidentiary burden in proceedings pursuant to this rule shall not in any way, nor should it be construed in any way to establish a more restrictive burden of proof than the existing preponderance of the evidence in any civil disciplinary action which may involve the person(s) or items that are the subject of the subpoena.
 2. Presiding Officer - For investigative subpoenas shall mean any elected officer of the board, or any duly appointed or elected chairperson of any panel of the board.
- (c) Procedures
 1. Investigative Subpoenas

(Rule 1020-01-.15, continued)

- (i) Investigative Subpoenas are available only for issuance to the authorized representatives of the Tennessee Department of Health, its investigators and its legal staff.
- (ii) An applicant for such a subpoena must either orally or in writing notify the Board's Unit Director of the intention to seek issuance of a subpoena. That notification must include the following:
 - (I) The time frame in which issuance is required so the matter can be timely scheduled; and
 - (II) A particular description of the material or documents sought, which must relate directly to an ongoing investigation or contested case, and shall, in the instance of documentary materials, be limited to the records of the patient or patients whose complaint, complaints, or records are being considered by the division or board.

In no event shall such subpoena be broadly drafted to provide investigative access to medical records of other patients who are not referenced in a complaint received from an individual or governmental entity, or who have not otherwise sought relief, review, or board consideration of a nursing home administrators conduct, act, or omission.
 - (III) Whether the proceedings for the issuance is to be conducted by physical appearance or electronic means; and
 - (IV) The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed.
- (iii) The Board's Unit Director shall cause to have the following done:
 - (I) In as timely a manner as possible arrange for either an elected officer of the board, or any duly appointed or elected chairperson of the board, to preside and determine if issuing the subpoena should be recommended to the full Board; and
 - (II) Establish a date, time and place for the proceedings to be conducted and notify the presiding officer, the applicant and the court reporter; and
 - (III) Maintain a complete record of the proceedings including an audio tape in such a manner as to:
 - I. Preserve a verbatim record of the proceeding; and
 - II. Prevent the person presiding over the proceedings and/or signing the subpoena from being allowed to participate in any manner in any disciplinary action of any kind formal or informal which may result which involves either the person or the documents or records for which the subpoena was issued.
- (iv) The Proceedings
 - (I) The applicant shall do the following:

(Rule 1020-01-.15, continued)

- I. Provide for the attendance of all persons whose testimony is to be relied upon to establish probable cause; and
 - II. Produce and make part of the record copies of all documents to be utilized to establish probable cause; and
 - III. Obtain, complete and provide to the presiding officer a subpoena which specifies the following:
 - A. The name and address of the person for whom the subpoena is being sought or who has possession of the, items being subpoenaed; and
 - B. The location of the materials, documents or reports for which production pursuant to the subpoena is sought if that location is known; and
 - C. A brief, particular description of any materials, documents or items to be produced pursuant to the subpoena; and
 - D. The date, time and place for compliance with the subpoena.
 - IV. Provide the presiding officer testimony and/or documentary evidence which in good faith the applicant believes is sufficient to establish that probable cause exists for issuance of the subpoena as well as sufficient proof that all other reasonably available alternative means of securing the materials, documents or items have been unsuccessful.
- (II) The Presiding Officer shall do the following:
- I. Have been selected only after assuring the Boards' Unit Director that he or she has no prior knowledge of or any direct or indirect interest in or relationship with the person(s) being subpoenaed and/or the licensee who is the subject of the investigation; and
 - II. Commence the proceedings and swear all necessary witnesses; and
 - III. Hear and maintain the confidentiality, if any, of the evidence presented at the proceedings and present to the full board only that evidence necessary for an informed decision; and
 - IV. Control the manner and extent of inquiry during the proceedings and be allowed to question any witness who testifies; and
 - V. Determine based solely on the evidence presented in the proceedings whether probable cause exists and if so, make such recommendation to the full board; and
 - VI. Sign the subpoena as ordered to be issued; and
 - VII. Not participate in any way in any other proceeding whether formal or informal which involves the matters, items or per-

(Rule 1020-01-.15, continued)

son(s) which are the subject of the subpoena. This does not preclude the presiding officer from presiding at further proceedings for issuance of subpoenas in the matter.

(III) The Board shall do the following:

- I. By a vote of two thirds (2/3) of the members to which the board is entitled, issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry, or quash or modify an existing subpoena by a majority vote; and
 - II. Sign the subpoena as ordered to be issued, quashed or modified.
2. Post-Notice of Charges Subpoenas - If the subpoena is sought for a contested case being heard with an Administrative Law Judge from the Secretary of State's office presiding, this definition shall not apply and all such post-notice of charges subpoenas should be obtained from the office of the Administrative Procedures Division of the Office of the Secretary of State pursuant to the Uniform Administrative Procedures Act and rules promulgated pursuant thereto.

(d) Subpoena Forms

1. All subpoena shall be issued on forms approved by the Board.
2. The subpoena forms may be obtained by contacting the Board's Administrative Office.

(e) Subpoena Service - Any method of service of subpoenas authorized by the Tennessee Rules of Civil Procedure or the rules of the Tennessee Department of State, Administrative Procedures Division may be utilized to serve subpoenas pursuant to this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, and 63-16-108. **Administrative History:** Original rule certified June 7, 1974. Amendment filed December 17, 1982; effective January 17, 1983. Amendments by Public Chapter 969; effective July 1, 1984. Amendment filed June 30, 1987; effective August 14, 1987. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed January 5, 1990; effective February 19, 1990. Amendment filed March 16, 1990; effective April 30, 1990. Amendment filed July 19, 1990; effective September 2, 1990. Amendment filed September 24, 1990; effective November 8, 1990. Amendment filed February 21, 1991; effective April 7, 1991. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed April 10, 2000; effective July 1, 2000. Amendment filed February 20, 2002; effective May 6, 2002. Amendments filed December 28, 2004; effective March 13, 2005. Amendment filed March 22, 2007; effective June 5, 2007. Amendment filed July 23, 2010; effective October 21, 2010.

1020-01-.16 SCOPE OF PRACTICE.

- (1) Policy Statement. The health, safety and welfare of nursing home residents in Tennessee depends upon the efficiency, fitness, competence and integrity of the administrators of those nursing homes. Licensure to practice nursing home administration confers upon each licensee the ultimate responsibility for the overall operation of any nursing home in which the licensee has assumed duties as an administrator. That responsibility, for purposes of nursing home administration licensure, is independent of any responsibility for facility licensure placed upon any governing body of a facility or any corporation, association or other entity or person which may own the facility.

(Rule 1020-01-.16, continued)

- (a) A licensee's responsibility extends to the acquisition of the authority necessary to assure that all equipment, supplies, personnel, structures and finances are available at all times and in such measures as to bring the facility into compliance with statutes and rules governing nursing home administrators, nursing home licensure and federal certification if participating in the Medicare or Medicaid programs.
 - (b) It is only after exhaustion of all avenues available to an administrator to secure those items necessary for the prevention or correction of facility survey deficiencies that the administrator will be deemed to have met his licensure responsibilities.
- (2) Surveys, Complaint Investigations, and Inspections. All matters concerning governmental surveys, complaint investigations and inspections of any kind are the direct responsibility of the administrator employed at the facility. The responsibility for addressing those actions cannot be assumed by any unlicensed personnel or licensees who are not expressly employed as the administrator of the facility.
 - (a) When an authorized signature is required on any federal, state or local governmental survey, investigation or inspection of any kind, those documents must be reviewed and signed by the administrator employed at the facility regardless of corporate or other ownership procedures or policies.
 - (b) In the absence of a facility administrator's signature, the signature of any person authorized by the owner of the facility does not absolve the administrator from responsibility for the condition in the facility which gave rise to the governmental action. Such signatures merely signify that the contents of the documents are true and any remedial action incorporated is authorized for timely implementation.
 - (c) The failure of any facility administrator to sign governmental documents requiring authorized signatures when within reasonable capabilities of the administrator to do so may constitute grounds for discipline pursuant to T.C.A. § 63-16-108. Any unlicensed personnel who sign such documents not containing the facility administrator's signature may be considered as practicing nursing home administration without a license and consequently subject to Board jurisdiction pursuant to T.C.A. § 63-1-134 and rule 1020-01-.15(3).
- (3) Use of Titles - Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the title "Nursing Home Administrator" and/or the acronym "N.H.A.," and to practice as a nursing home administrator as defined in T.C.A. § 63-16-101. Violation of this rule regarding use of titles shall subject the licensee to disciplinary action. Any person licensed by the Board must use the title and/or the acronym authorized by this rule in every advertisement he or she publishes. The failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the nursing home administrator to disciplinary action pursuant to T.C.A. § 63-16-108 (1), (2), and (3).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-102, 63-1-145, 63-1-146, 63-16-101, 63-16-103, 63-16-108 and 63-16-111. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed September 11, 1984; effective October 11, 1984. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed May 6, 1988; effective June 20, 1988. Amendment filed January 4, 1990; effective February 18, 1990. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed July 27, 2006; effective October 10, 2006. Amendment filed July 23, 2010; effective October 21, 2010.

1020-01-.17 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

- (1) Malpractice reporting requirements. The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know Act of 1998" shall be ten thousand dollars (\$10,000).
- (2) Criminal conviction reporting requirements. For purposes of the "Health Care Consumer Right-To-Know Act of 1998", the following criminal convictions must be reported:
 - (a) Conviction of any felony.
 - (b) Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 1. Sex.
 2. Alcohol or drugs.
 3. Physical injury or threat of injury to any person.
 4. Abuse or neglect of any minor, spouse or the elderly.
 5. Fraud or theft.
 - (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the department before the conviction will be expunged from any profile.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, and 63-51-101, et seq. **Administrative History:** Original rule certified June 7, 1974. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed September 24, 1987; effective December 29, 1987. Repeal filed December 17, 1991; effective January 31, 1992. New rule filed April 10, 2000; effective July 1, 2000.

1020-01-.18 ADVERTISING. The following acts or omissions in the context of advertisements by any licensee shall subject the licensee to disciplinary action pursuant to T.C.A. § 63-16-108.

- (1) Claims that convey the message that one licensee is better than another when superiority cannot be substantiated.
- (2) Misleading use of an unearned or non-health degree.
- (3) Misrepresentation of a licensee's credentials, training, experience, or ability.
- (4) Promotion of professional services which the licensee knows or should know are beyond the licensee's ability to perform.
- (5) Use of any personal testimonial attesting to a quality of competency that is not reasonably verifiable.
- (6) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.

(Rule 1020-01-.18, continued)

- (7) Communication of personal identifiable facts, data, or information about a nursing home resident without first obtaining the resident's consent, unless otherwise permitted or required by state or federal law or regulation.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-145, 63-16-103, and 63-16-108. **Administrative History:** Original rule certified June 7, 1974. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed July 27, 2006; effective October 10, 2006.

1020-01-.19 REPEALED.

Authority: T.C.A. §63-16-103. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Repealed by Public Chapter 969; effective July 1, 1984.

1020-01-.20 REPEALED.

Authority: T.C.A. §63-16-103. **Administrative History:** Original rule certified June 7, 1974. Repealed by Public Chapter 969; effective July 1, 1984.

1020-01-.21 REPEALED.

Authority: T.C.A. §63-16-103. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Repealed by Public Chapter 969; effective July 1, 1984.

1020-01-.22 REPEALED.

Authority: T.C.A. §63-16-103. **Administrative History:** Original rule certified June 7, 1974. Repealed by Public Chapter 969; effective July 1, 1984.

1020-01-.23 REPEALED.

Authority: T.C.A. §§63-16-103(8) and 4-5-202. **Administrative History:** Original rule certified June 7, 1974. Repeal filed December 17, 1991; effective January 31, 1992.

**RULES
OF
TENNESSEE STATE BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS**

**CHAPTER 1020—2
RULES OF PROCEDURE FOR HEARING CONTESTED CASES**

For Rules of Procedure for Hearing Contested Cases see Rules of the Secretary of State, Chapter 1360—1—7.

Authority: T.C.A. §4—509. *Administrative History:* Original chapter filed November 22, 1978; effective January 8, 1979.