Tennessee State Veterans' Homes Board
"Proudly Serving Those Who Served"
PO Box 11328, Murfreesboro, Tennessee 37129
Phone (615) 895-1181 * Fax (615) 898-1619

Meeting of March 3, 2016 – State of California Little Hoover Commission

Written Testimony by Ed Harries, Executive Director
Tennessee State Veterans' Homes Board
Testimony of Tennessee State Veterans' Homes

Chairman Nava and Commission Members,

Thank you for the opportunity to testify before you today regarding the qualities of successfully operating state veteran homes across the State of Tennessee. My testimony is an overview of my expertise and experience in the long term care of nursing homes. I will address the components that are critical in skilled nursing facilities such as the Tennessee State Veterans' Homes.

By way of background, I have over 20 years' experience on an executive level in rehabilitation, long term care and acute healthcare management. My areas of expertise include operational improvement, strategic planning, market Analysis and census building, organizational assessment and re-design, practical application of statistical data, and quality improvement and assurance. I have co-authored two articles: *Assessing the Accuracy of a Long Term Care Facility's MDS Process: A Guide for Administrators.,* Survey Savvy, Summer 2002 edition; and *Web-Based Software Applications for Long Term Care,* Nursing Homes Magazine, January 2004 edition. My background includes extensive experience in long term care facility, outpatient rehabilitation center and tertiary care hospital management operations. I have spoken numerous times at health care conventions on both a state and national level for organizations including: The National Sub-Acute and Post-Acute Care Association (NASPAC), American College of Health Care Administrators (ACHCA), and the Ohio Health Care Association (OHCA). A Licensed Nursing Home Administrator, I am an alumnus of Youngstown State University and have attended St. Joseph's College of Windham, Maine pursuing a Masters in Health Services Administration. I also hold a Six Sigma Black Belt.

Governance

- The attached document provides in detail the establishment and structure of the Tennessee State Veterans' Homes Board (TSVHB). Within the document is a summarization of the following:
    - Board Powers and Duties
    - TSVHB Committees – Executive Committee & Audit Committee
    - Committee Powers and Duties
    - Board Officer Job Descriptions – Chair, Vice-Chair, Committee Chair, and Board Secretary
    - Board Member Job Description

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- Relationship with State Entities – Executive Branch, Judicial Branch, and Legislative Branch
- Relationships with Federal Entities – DOJ, CMS, USVA
- Relationships with Veterans Organizations – UTVA and NASVH
- Relationships with Health Care Industry Organizations – THCA and AHCA
- State & Federal Laws and Regulations Applicable to the TSVHB

Admissions and Priorities

- The attached document explains the Linton Law.
- Eligibility Requirements for Admissions-
  Veterans who were Honorably Discharged from Active Service and who also meet *at least one* of the below additional requirements:
  - Resident of Tennessee at the time of admission.
  - Veteran who was born in Tennessee.
  - Entered in U.S. Armed Forces in Tennessee.
  - Tennessee Address is official Home of Record on Veterans' Military Record.
  - Has immediate family member who serves as primary caregiver and is a resident of Tennessee.
  - Spouse or Gold Star parent are eligible for admission on a space available basis.

*Must supply copy of Veteran Discharge Papers (DD214) prior to admission. If spouse, will additionally need Marriage Certificate & Death Certificate if applicable.

- Waiting List – Admission Priorities
  1. Emergent need (In hospital)
  2. In SNF as skilled care
  3. In Nursing Home non-skilled care and all others

*Residents currently in a TSVH bypass the waiting list.

Ensuring Quality Care

TSVHB Executive Office – Operations-Quality Assurance Policy

- The attached document provides the policy and procedures of maintaining a quality assurance (QA) program in order to better serve the residents and staff of TSVH. The QA program is accessible to all employees, residents and families.
- The attached document provides the standing membership of the QA Committees quarterly and monthly.
- The attached document provides explanation of the QA tools that measure and monitor the quality of care and quality measures

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- All regulatory surveys are under the direction of the Home Office Clinical team. The Clinical team directs the surveys to ensure facility staff can continue taking care of residents. The Clinical Team acts as a liaison between the regulators and the facility staff.

Facilities Maintenance and Operations

- TSVHB has a Director of Construction and Facilities Management. This position is accountable for the oversight and facility operations across the State of Tennessee, currently four facilities.
- TSVHB works in coordination with the State on any new construction, STREAM (State of Tennessee Real Estate Asset Management).
- TSVHB existing and future maintenance needs are funded by TSVHB itself. TSVHB does not take any money from the State budget unless it is for new construction.
- TSVHB is regulated by State and Federal survey inspections annually in all homes. The Director of Construction and Facilities Management oversees the survey process and acts as a liaison between the regulators and facility staff.

Funding

- TSVHB functions like a for profit nursing home. Funding sources that support TSVHB include:
    - Medicare
    - Medicaid
    - Private Insurance
    - Private Pay
    - VA

- Annual 2016 Budget approximately $50M
- TSVHB does not take monies from the State budget, except for new construction through VA Federal Grants.

Assessing Needs

- The attached document explains the TSVHB Strategic Plan for ensuring we meet the level of care of our Tennessee veterans currently and in the future.
    - Strategic Plan Process
    - Current Needs of Veteran Population
    - Services Lines:

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- More Intensive Wound Care
- Respiratory Care
- Palliative Care
- Exploring Telemedicine

Recommendations

In closing, I hope that the information provided and attached to my written testimony to the Little Hoover Commission has been helpful. My first recommendation(s) for the California Governor and Legislature to ensure California State veteran homes are operating efficiently and effectively is to have a board entity in place such as the Tennessee State Veterans' Homes Board (TSVHB).

TSVHB is a political subdivision and instrumentality of the State of Tennessee. The Governor appoints all board members. The TSVHB works in conjunction with the Executive Office which serves as the central headquarters overseeing all of the state veteran homes. Our organization is fiscally conservative and has financial self-direction over day to day operations within the governance guidelines of the State of Tennessee. TSVHB is self-operating, self-sufficient, and growing for the future.

Another recommendation is to hire experts within the Executive Office administration. The Executive Office operates as the core of the organization with the goal of enabling all homes to operate effectively. The advantage of being a political subdivision gives TSVHB the benefit of ensuring day to day operations to be run successfully and not by State appointed administration or by management consultant companies. The TSVHB operates as a business, not a State department. The majority of its key senior management staff has extensive experience in private sector operation of long term care facilities.

Next, a robust QA/QI program must be developed and maintained. It needs to be functional and productive in the creation or revision of processes that will improve quality in both clinical and operational aspects. This QA/QI system needs to involve every staff member and have a component that focuses specifically on improving each resident's quality of life.

Lastly, I would recommend a strong Strategic Plan to be created for assessing and operating the current and future needs of skilled state nursing facilities. This plan can and should be created by the Executive Office Administration with the insight and approvals of the CSVH. The Strategic Plan should be shared and utilized with other state entities for future planning of additional veterans homes and expanded veterans' services.

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I would like to thank the Little Hoover Commission Chairman and members for allowing me to share my expertise, testimony, and recommendations to help the future of California State Veterans' Homes. TSVHB is recognized by U.S. News and World Report for Best Nursing Homes in our country. We will continue to give our residents the elite quality of care and quality of life they deserve. TSVHB takes pride in what we do every day for our veterans, our heroes by 'Proudly serving those who served.' Our organization stands by this mission and encourages other state veteran homes to charge forward to do the same.

Sincerely,

Ed Harries
Executive Director
Tennessee State Veterans' Homes Board
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TENNESSEE STATE VETERANS HOMES BOARD

Public hearings by the Joint Select Committee on Veterans Affairs were held across the State in the fall of 1985 to identify the concerns of Tennessee's veterans. Long term health care was clearly a priority concern and the Tennessee Department of Veterans Affairs recommended that a system of State Veterans Homes be established.

The governing body for the Tennessee State Veterans Homes is the Tennessee State Veterans Homes Board with responsibility for oversight of the day-to-day management and operations vested in the Executive Committee of the Board. The Executive Committee exercises its authority for planning, implementation, and operation of the State Veterans Homes through the Executive Director and his staff. Administrators at each facility are responsible for the day-to-day operations of the facilities.

The first home opened in Murfreesboro on June 10, 1991. Located on a seven acre lot, deeded to the Board by the U.S. Department of Veterans Affairs, adjacent to the Alvin C. York V.A. Medical Center, this is a 140 bed facility offering intermediate and skilled levels of nursing care in a one-story building encompassing 69,278 square feet. Legislation passed by the General Assembly in 1993 provided for construction of a second facility in Humboldt, Tennessee. Also a 140 bed facility offering intermediate and skilled levels of nursing care, this one-story building encompassing 74,870 square feet opened February 7, 1996. The third home in Knox County opened in December 2006. This 140 bed facility offers intermediate and skilled levels of nursing care in a spacious 73,065 square foot one-story building. In each of the three facilities, 20 of the beds are located in a secure, special needs unit. The fourth home in Clarksville, Tennessee, opened January 11, 2016. This home is a 108 bed facility that offers all private rooms in 12 cottage-like houses covering 103,000 square feet.

Plans are also underway to build three additional facilities. The first of the three facilities will be built in Cleveland, Tennessee. Facility site location and Memorandums of Understanding are confirmed for the 108 bed facility. Schematic Design phase is completed and Design Development Phase is underway. The second facility will be located in the Memphis area. Efforts are underway to secure the State's portion of the financing and a site for the facility. The third facility will be located in the Northeast, Tennessee area and will house 108 beds.

All residents are cared for in such a manner and in such an environment as to promote enhancement of their quality of life without abridging the safety and rights of other residents. An interdisciplinary team approach to resident life is utilized to assure the quality of life. Residents and family members are involved in the care planning process, and resident participation is encouraged through a functioning resident council.

THE TENNESSEE STATE VETERANS' HOMES BOARD

The Tennessee State Veterans' Homes Board (TSVHB or Board) is a political subdivision and instrumentality of the State of Tennessee. The Board consists of thirteen (13) members. The Commissioner of Veterans Services and the Commissioner of Finance and Administration are ex officio voting members of the TSVHB. These commissioners may designate a staff member to attend meetings of the Board or its committees and to exercise the commissioner's right to vote in the commissioner's absence. Such delegation must be made in writing to the Board chair.

The remaining eleven members are appointed by the Governor. At least three TSVHB members must be appointed from each of the three (3) grand divisions of the State. All appointments are subject to review by the Joint Select Committee on Veterans' Affairs of the General Assembly. The initial appointments were for one, two, and three years, respectively, in order to stagger the terms. Now all appointed members serve three year terms except, when there is a vacancy due to death, resignation, or other reason, the Governor must appoint a Board member to the remainder of the unexpired term. Each Board member must be a citizen of the State of Tennessee. One member must be a nursing home administrator at the time of such member's appointment and experienced in the financial operations of nursing homes. One member must have clinical experience in nursing homes. The remaining members must be honorably discharged veterans of the United States Armed Forces. Veteran members must be appointed from nationally chartered service organizations which have departments in Tennessee. The Board shall be composed of members representing different organizations as well as different branches of the armed forces. Appointed members of the Board may be removed for cause by the Governor.

Members of the TSVHB are not compensated for services rendered to the TSVHs, but are compensated for necessary expenses incurred by a member in the performance of his or her official duties. All reimbursement for travel expenses must be in accordance with the policies and guidelines approved by the TSVHB, but must not exceed the maximum reimbursement for travel expenses allowed by the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the Attorney General.

If any matter before the TSVHB involves a project, transaction, or relationship in which a member or the member's associated institution, business or board has a direct or a conflicting interest, the member must disclose to the Board that interest and shall be prohibited from participating in discussions and voting on that matter.

BOARD POWERS AND DUTIES

1. Elect a chair from among its members. The chair shall be a citizen of the State and an honorably discharged veteran of the United States Armed Forces. The chair shall serve a one-year term. A chair may be reelected, provided that no person shall serve as chair for more than two (2) consecutive terms.

2. Select other officers as the Board finds necessary and appropriate. Such positions are for a period of one (1) year but members may be reelected to serve additional terms, provided that no person shall serve for more than two (2) consecutive terms.

3. Elect to the TSVHB Executive Committee either the Board member who is a nursing home administrator or the Board member who has clinical experience in nursing homes.

4. Elect Audit Committee members to one year terms, considering their qualifications and availability to serve.

5. Determine the location of the Tennessee State Veterans' Homes.

    a. In selecting the site, preference shall be given to publicly owned land. Land for sites may be purchased only if suitable publicly owned land is not available.

    b. In establishing TSVHs, the State shall apply for a grant from the United States Veterans' Administration and/or obtain its approval for leasing existing facilities pursuant to the provisions of Public Law 95-62 (38 U.S.C. §§ 5031-5037). The Department of Veterans' Affairs is authorized to submit such an application(s) on behalf of the TSVHB and take other preparatory actions to identify existing facilities for lease or purchase and process the necessary requests for proposals.

6. Adopt written policies and procedures to govern TSVHB internal operations.

7. Acquire, in the name of the TSVHB, real or personal property or any interest therein, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise.

8. Hold, sell, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage interest owned by it or in its control, custody or possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including threat of foreclosure.

9. Incur debts, borrow money, issue debt instruments and provide for the rights of the holders thereof.

    a. Prior to the adoption of any resolution or other action of the TSVHB authorizing the incurrence of debt or the borrowing of funds or entering into any contract or other arrangement for the planning or preparation for the incurrence of debt or the borrowing of funds, the TSVHB must review such plans with the Division of Bond Finance in the office of the Comptroller of the Treasury.

b. The State Funding Board is authorized to contract or to make other arrangements as it may deem necessary to provide for the issuance of such debt of the TSVHB, or in the State Funding Board's discretion, the TSVHB may enter into such contracts or other arrangements; provided, however, that any contract or arrangement entered into for the purpose of the issuance or incurrence of debt shall be subject to the approval of the State Funding Board.

c. Any resolution or other action of the TSVHB authorizing the issuance or incurrence of debt shall be submitted to the State Funding Board, and such resolution or other action shall only become effective upon receiving the approval of the State Funding Board.

d. Any instrument or document evidencing the debt or borrowing of funds by the TSVHB shall contain on the face thereof a statement to the effect that the debt or obligation is not a debt of the state, but is payable solely from revenues and moneys pledged to the payment thereof.

10. Procure insurance against any loss in connection with its property and other assets in amounts and from issuers which it deems desirable.

11. Receive bequests and donations that may be made to improve the general comfort and welfare of the members of the home(s) or for the betterment of the home(s).

a. The administrator of each TSVH shall deposit with the State Treasurer funds paid by veterans for their maintenance, funds received from the United States treasury and other funds given or granted to the TSVH, including state funds. Such funds may be invested in the local government investment pool pursuant to Title 9, Chapter 4, Part 7.

b. The TSVHB is authorized to accept funds from any source whatever, including the federal government or any department or board thereof.

c. All such funds received by the TSVHB for the TSVHs, including funds from the United States government or any federal board or program for the support of persons housed on the grounds of the TSVHs, shall be used by the TSVHB to pay maintenance, operational and administrative expenses, and to further the objectives and purposes of the TSVHs.

d. The TSVHB may establish such bank accounts pursuant to Tenn. Code Ann. § 9-4-302 as are necessary for the efficient management of the TSVHs.

12. Seek assistance from the Commissioner of Finance and Administration, the Comptroller of the Treasury, the State Treasurer, and other state agencies.

13. Do other acts necessary or convenient to exercise the powers granted or reasonably implied by statute.

14. Provide guidance to future administrators at state veterans' nursing homes based upon the collective institutional memory of the Board.

15. Notify members of the General Assembly and appropriate members in the executive branch of potential problems in state veterans' nursing homes.

16. Make an annual report to the Governor and to members of the Government Operations Committees of the Senate and the House of Representatives and the Joint Select Committee on Veterans' Affairs. This report shall contain:

    a. An accounting of all money received and expended,

    b. Statistics on persons who resided in the TSVHs during the year,

    c. Recommendations to improve the TSVHs, and

    d. Such other matters as the TSVHB deems pertinent.

17. At least thirty (30) days prior to the beginning of each fiscal year, submit a plan of operation for review and approval to the Commissioner of Veterans Services, the Commissioner of Finance and Administration, and the Comptroller of the Treasury.

    a. The plan of operation shall be in such form as may be required by the state officials enumerated in this section and shall include, but not be limited to, a budget for operating and capital expenditures and appropriate policies and procedures adopted by the TSVHB to govern the expenditure of these funds.

    b. The plan of operation may be amended during a fiscal year with the written approval of the Commissioner of Veterans Services, the Commissioner of Finance and Administration, and the Comptroller of the Treasury.

18. Comply with the open meetings provisions of Title 8, Chapter 44, except that the TSVHB may, pursuant to the State of Tennessee Audit Committee Act of 2005, hold confidential, nonpublic executive sessions to discuss:

    a. Items deemed not subject to public inspection under Tenn. Code Ann. §§ 10-7-503 and 10-7-504, and all other matters designated as confidential or privileged under Tennessee statute;

    b. Litigation;

    c. Audits or investigations;

    d. Information protected by federal law; and

    e. Matters involving information under Tenn. Code Ann. § 4-35-107(a) where the informant has requested anonymity.

No business, other than that described under subparagraphs a.-e. above, shall be considered during a confidential, nonpublic executive session by the TSVHB. For purposes of providing notice of a confidential, nonpublic executive session, the agenda must disclose the general nature of discussion as described under subparagraphs a.-e. above. A meeting at which both subject matter open to the public and confidential subject matter will be discussed shall be conducted as follows:

a. All business relating to subject matter that is public in nature shall be conducted first; and

b. At the conclusion of the meeting relating to subject matter that is public in nature, the Chair shall announce that the public portion of the meeting is adjourned and that the remainder of the meeting will concern matters that are confidential under subparagraphs a.-e. above. When everyone at the meeting who is not authorized to attend the confidential portion of the meeting has departed, the confidential portion of the meeting shall commence.

TSVHB COMMITTEES

The TSVHB has two committees mandated by Tennessee law: the TSVHB Executive Committee and the TSVHB Audit Committee. In addition, the TSVHB may establish such other committees as deemed necessary and appropriate to the performance of the Board's powers and duties.

1. Executive Committee

The Executive Committee was created by statute in 2008. The Executive Committee is composed of three (3) members of the TSVHB: the Commissioner of Finance and Administration or his designee, the TSVHB Chair, and either the Board member who is a nursing home administrator or the Board member who has clinical experience in nursing homes, as elected by the TSVHB.

2. Audit Committee

The TSVHB is required to have an Audit Committee by the State of Tennessee Audit Committee Act of 2005. That Act requires such a committee for any state governing board, council, commission, or equivalent body that has the authority to hire and terminate its employees or that is responsible for the preparation of financial statements, unless exempted from the requirement to form an audit committee by the Comptroller of the Treasury. The Audit Committee Act also requires the following:

a. The Audit Committee is required to develop and maintain a written charter addressing the Audit Committee's purpose, powers, duties, and mission consistent with guidelines established by the Comptroller of the Treasury. The Comptroller of the Treasury must review the proposed charter to determine whether the charter contains the minimum necessary requirements. The charter, and any subsequent amendments, must be presented to the TSVHB and the Comptroller of the Treasury for approval.

b. The Audit Committee is a standing committee of the TSVHB and shall have at a minimum three (3) members, chosen as prescribed in the Audit Committee charter.

c. The Audit Committee's charter must provide for the frequency of and procedures relative to conducting meetings.

d. The Audit Committee must meet upon the request of the Comptroller of the Treasury.

Pursuant to the TSVHB Audit Committee Charter, the Audit Committee is comprised of three (3) TSVHB members and the TSVHB Chair. Each member must be free from any relationship that, in the opinion of the Audit Committee Chair, would interfere with the exercise of independent judgment as a member of the Committee. All members of the Committee must have a working familiarity with basic finance and accounting practices and the compliance environment in which the TSVHB and TSVHs operate. Members should be selected based on their qualifications and ability to serve. The TSVHB membership elects the Audit Committee

members who then elect a Chair. Preferably, the Chair should have an accounting or financial management background. Audit committee members serve a term of one year and may be reelected. The Audit Committee is a standing committee of the Board which meets at least two times annually or more frequently as circumstances dictate.

EXECUTIVE COMMITTEE POWERS AND DUTIES

1. Oversight of the day-to-day management and operation of TSVHs, including, but not limited to:

    a. The authority to employ an executive director and other employees and to incur expenses as may be necessary for the proper discharge of its duties;

    b. The authority to establish policies regarding the rates for patient care while in a TSVH; and

    c. The authority to make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions, including contracts for the operation of the TSVHs. All contracts that pertain to the acquisition and improvement of real property pursuant to Tenn. Code Ann. § 4-15-102 must be approved in advance by the building commission and must be approved by the TSVHB. Contracts for services must also be approved in advance pursuant to Tenn. Code Ann. § 12-4-109.

2. Appoint the Executive Director subject to review by the TSVHB.

3. Establish the compensation of the Executive Director.

4. Review the performance of the Executive Director annually. The Executive Director shall serve at the pleasure of the Executive Committee.

5. File a quarterly report with the Fiscal Review Committee concerning the operations of each TSVH. The report shall be filed within fifteen (15) business days following the end of each calendar quarter and include information for the three-month period. The report shall include detailed information concerning the extent to which each TSVH is in compliance with state and federal law, as well as all actions taken by the Executive Committee to ensure compliance with the requirements of the TSVHB statute. The report shall also include any specific information requested by the chairman of the Fiscal Review Committee.

AUDIT COMMITTEE POWERS AND DUTIES

1. Oversight of financial reporting and related disclosures, especially when financial statements are issued.

    a. Review annual financial statements, Plan of Operation, and any compliance or other reporting or financial information submitted to any governmental body or the public, including any certification, report, opinion, or review rendered by the Division of State Audit.

    b. Ensure procedures are in place and being followed for the receipt, retention and treatment of complaints about the TSVHB's accounting, internal controls, or auditing practices.

    c. Establish, review, and update periodically a Code of Ethical Conduct and ensure that management has established a system to enforce this Code.

        i. Review the TSVHB's Code of Conduct to insure it is easy to access, widely communicated, easy to understand and implement, includes a confidential mechanism for reporting code violations, and includes a conflict of interest policy and guidelines.

        ii. Review the conflict of interest policy to ensure that the term "conflict of interest" is clearly defined, guidelines are comprehensive, annual "signoff" is required and that potential conflicts are adequately resolved and documented.

        iii. Review management's monitoring of compliance with the Board's Code of Ethical Conduct, and unsure that management has the proper review system in place to ensure that financial statements, compliance, other reports and financial and compliance information, disseminated to governmental organizations and the public, satisfy legal and/or regulatory requirements.

    f. In consultation with the Division of State Audit, review the integrity of the financial and compliance reporting mechanisms. Consider the Division's judgment about the quality and appropriateness of the accounting principles as applied in the Board's financial reporting. Consider and approve, if appropriate, major changes to the auditing and accounting principles and practices as suggested by the Division or TSVHB management.

    g. Establish regular and separate systems of reporting to the Audit Committee by management and the Division of Audit regarding any significant judgments made in management's preparation of the financial statements and the view of each as to appropriateness of such judgments.

h. Review any significant disagreement among management and the Division of Audit in connection with the preparation of the financial statements and/or related to compliance reporting.

i. Inform the Comptroller of the Treasury the extent to which compliance, corrective actions and changes or improvements in financial or accounting practices, as approved by the Audit Committee, have been implemented.

j. Review, with the Attorney General's office, any legal matter that could have a significant impact on the financial statements or its material compliance with laws, regulations and agreements.

2. Evaluation of management's assessment of the Board's system of internal controls.

3. Formal reiteration, on a regular basis, to the TSVHB, management and staff, their responsibility for preventing, detecting, and reporting fraud, waste, and abuse as it pertains to the operation of the TSVHB and the TSVHs.

4. Facilitation of any audits or investigations of the TSVHB, including advising auditors and investigators of any information the Audit Committee may receive pertinent to audit or investigative matters.

   a. Following completion of the annual audit, review separately with management and the Division of Audit any significant difficulties encountered during the course of the audit, including any restrictions on the scope of work or access to required information.

5. Informing the Comptroller of the Treasury of the results of assessment and controls to reduce the risk of fraud.

6. Promptly notifying the Comptroller of the Treasury of any indications of fraud.

7. Seeking information the Audit Committee requires from employees or external parties.

8. Meeting with TSVH Board, management, external and internal auditors, legal counsel, or others as necessary.

9. Requiring internal auditors to report directly to the Audit Committee.

10. Establishing a process by which employees, taxpayers or other citizens may confidentially report suspected illegal, improper, wasteful or fraudulent activity.

    a. The detailed information received pursuant to such a report of illegal, improper, wasteful or fraudulent activity or any investigation thereof, except those matters disclosed in the final reports, shall be considered audit working papers and shall be confidential under the provisions of Title 10, Chapter 7.

b. The provisions of Tenn. Code Ann. § 8-50-116 apply to all TSVHB employees. No TSVHB employees shall suffer any of the prohibited retaliatory actions specified in Tenn. Code Ann. § 8-50-116 for reporting or cooperating with the Audit Committee, internal auditors, or auditors from, or approved by, the Comptroller of the Treasury.

11. Comply with the open meetings provisions of Title 8, Chapter 44, except that the Audit Committee may hold confidential, nonpublic executive sessions to discuss:

    a. Items deemed not subject to public inspection under Tenn. Code Ann. §§ 10-7-503 and 10-7-504, and all other matters designated as confidential or privileged under Tennessee statute;

    b. Litigation;

    c. Audits or investigations;

    d. Information protected by federal law; and

    e. Matters involving information under Tenn. Code Ann. § 4-35-107(a) where the informant has requested anonymity.

    No business, other than that described under subparagraphs a.-e. above, shall be considered during a confidential, nonpublic executive session by the Audit Committee. For purposes of providing notice of a confidential, nonpublic executive session, the agenda must disclose the general nature of discussion as described under subparagraphs a.-e. above. A meeting at which both subject matter open to the public and confidential subject matter will be discussed shall be conducted as follows:

    a. All business relating to subject matter that is public in nature shall be conducted first; and

    b. At the conclusion of the meeting relating to subject matter that is public in nature, the Chair shall announce that the public portion of the meeting is adjourned and that the remainder of the meeting will concern matters that are confidential under subparagraphs a.-e. above. When everyone at the meeting who is not authorized to attend the confidential portion of the meeting has departed, the confidential portion of the meeting shall commence.

12. Annually review and consider updates to the Audit Committee Charter.

13. Perform any other activities consistent with the Audit Committee Charter, the Bylaws, resolutions or ordinances, and governing law, as the Audit Committee or the Board deems necessary or appropriate.

BOARD CHAIR JOB DESCRIPTION

1. Qualifications:

    a. Member of TSVH Board,

    b. Citizen of the State of Tennessee, and

    c. Honorably discharged veteran of the United States Armed Forces.

2. Term: one year. A chair may be reelected, but no person shall serve as chair for more than two (2) consecutive terms.

3. Member of Executive Committee.

4. Member of Audit Committee.

5. Establishes other committees necessary and appropriate to the performance of the Board's powers and duties; appoints committee chair and members.

6. Provides leadership to the TSVHB.

7. Chairs meetings of the TSVHB after developing agenda with Executive Director and Executive Committee.

8. Performs other duties assigned by the TSVHB.

VICE CHAIR JOB DESCRIPTION

1. Member of TSVH Board.

2. Term: one year. A vice chair may be reelected, but no person shall serve as vice chair for more than two (2) consecutive terms.

3. Performs TSVHB Chair duties and has the power of the TSVHB Chair during the absence or disability of the Chair.

4. Reports to the TSVHB Chair.

5. Works closely with the TSVHB Chair and TSVHB staff.

6. Performs other responsibilities as assigned by the TSVHB and TSVHB Chair.

7. Performs TSVHB member responsibilities.

COMMITTEE CHAIR JOB DESCRIPTION

1. Member of TSVHB.
2. Sets tone for committee work.
3. Ensures that committee members have the information needed to do their jobs.
4. Oversees the logistics of the committee's operations.
5. Reports to the TSVHB Chair.
6. Reports the committee's actions and recommendations to the TSVHB or TSVHB Executive Committee, as appropriate.
7. Works closely with the Executive Director and other staff as agreed to by the Executive Director.
8. Assigns work to committee members, sets the agenda and runs the meetings, and ensures distribution of meeting minutes.

BOARD SECRETARY JOB DESCRIPTION

1. Member of TSVHB.

2. Term: one year. A secretary may be reelected, but no person shall serve as secretary for more than two (2) consecutive terms.

3. Responsible for keeping records of TSVHB actions, including overseeing the taking of minutes at all meetings, sending out notices, and assuring that the corporate records are maintained.

4. Performs such other duties and has such other powers as authorized by the TSVHB.

5. Performs TSVHB member responsibilities.

BOARD MEMBER JOB DESCRIPTION

1. Regularly attends TSVHB meetings and important related meetings.

2. Makes serious commitment to participate actively in committee work.

3. Volunteers for and willingly accepts assignments and completes them thoroughly and on time.

4. Stays informed about committee matters, prepares for meetings, and reviews and comments on minutes and reports.

5. Gets to know other committee members and builds a collegial working relationship that contributes to consensus.

6. Actively participates in TSVHB evaluation and planning efforts.

RELATIONSHIPS WITH STATE ENTITIES

Executive Branch:

Governor's Office – The Governor is the chief executive officer in the State and is responsible for all departments, agencies and other entities in the Executive Branch. The Governor appoints eleven (11) of the thirteen (13) TSVHB members and receives the Board's annual report.

Department of Finance and Administration (F&A) – Participates in day-to-day management of the TSVHs by membership of Commissioner of Finance and Administration or his designee on Executive Committee and as an ex officio voting member of the TSVHB. Approves annual operating budget and:

> **Office of Contracts Review (OCR), Department of Finance and Administration** – Reviews and approves both service procurement processes and contracts on behalf of the F&A Commissioner. These statutorily required approval reviews aim to ensure compliance with state law and regulations, good business practice, fair competition, sound financial management, proper accounting and financial reporting, and conformity with state budgetary priorities.

Department of Health (DOH) – Licenses and ensures quality of care in health care facilities, including nursing homes. Conducts state licensure and/or federal certification surveys annually for participation in the Medicare and Medicaid programs, investigates all facility complaints received, and issues and collects state and /or federal civil monetary penalties. Licenses health care professionals.

Department of Human Services (DHS) – Determines Medicaid financial eligibility and:

> **Adult Protective Services (APS)** – Protect adults from abuse, neglect or exploitation by requiring reporting of suspected cases, investigation, determination of whether abuse, neglect, and/or exploitation occurred, and provision of services.

Department of Veterans Services– Oversight of TSVHs through membership of Commissioner of Veterans Services or his designee on the TSVHB an ex officio voting member. Approves annual operating budget.

Judicial Branch:

Office of the Attorney General (AG) – Directs all civil litigation and administrative proceedings in which the State or any officer, department, agency, board, commission, or instrumentality of the State has an interest. Attends to all business of the State, civil and criminal, in the state courts of appeals and supreme court, and the federal courts. Provides legal advice to state officials.

Legislative Branch:

Comptroller of the Treasury – Oversight through the Liaison to the Board, approval of annual operating budget and the conduct of an annual state audit. Approves the TSVHB Audit Committee Charter and any amendments. Meets with the TSVHB Audit Committee upon request.

State Funding Board, Division of Bond Finance, Comptroller of the Treasury – Responsible for issuing all State general obligation bonds and notes as authorized by the General Assembly, and administers and accounts for the payment of principal and interest on such bonds and notes. The State Funding Board approved the issue of State General Obligation Bonds, replacing the Board's bonds at a more advantageous interest rate and saving the Board approximately $1.5 million over the life of the bonds. The Funding Board is briefed on the status of the Board's finances and operation on a quarterly basis. The State Funding Board reviews the Board's plans and preparations for the incurrence of debt or borrowing of funds, approves any resolution or other action authorizing the issuance or incurrence of debt, and approves any contract or arrangement entered into by the TSVHB for the purpose of issuance or incurrence of debt.

Office of Open Records Counsel – Answers questions and provides information to public officials and the public regarding public records. Collects data on open meetings law inquiries and problems and provides educational outreach on open records and open meetings laws. Informally mediates and assists with resolution of issues concerning open records law.

General Assembly -

Fiscal Review Committee – Receives and reviews quarterly report filed by Executive Committee concerning the operations of each TSVH.

Government Operations Committee - Receives the Board's annual report.

Joint Select Committee on Veterans' Affairs – Reviews all appointments made by Governor to the TSVHB. Receives the Board's annual report.

RELATIONSHIPS WITH FEDERAL ENTITIES

Department of Justice (DOJ) – DOJ enforces the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 *et seq.* (CRIPA). CRIPA applies to any institution owned, operated, managed by, or providing services on behalf of any State or political subdivision of the State which is for persons who are mentally ill, disabled, retarded, chronically ill or handicapped; a jail, prison or correctional facility; a pretrial facility; a facility for juveniles that is not a residence; or provides skilled nursing, intermediate or long-term care, or custodial or residential care. CRIPA prohibits egregious or flagrant conditions which deprive persons of any rights, privileges or immunities secured or protected by the U.S. Constitution or federal law. Generally, there must be a pattern or practice of such violations.

Centers for Medicare & Medicaid Services (CMS) – CMS administers the federal Medicare and Medicaid Programs. CMS is responsible for the conduct of the annual and complaint surveys performed at the TSVHs by State DOH surveyors.

U.S. Veterans Administration (VA) – The VA provides oversight to the TSVHB based on the per diem funds received by the TSVHs and conducts surveys of the TSVHs similar to those conducted on behalf of CMS.

RELATIONSHIPS WITH VETERANS ORGANIZATIONS

United Tennessee Veterans Association (UTVA) – Members represent the nationally recognized veterans' organization having offices in the State of Tennessee. UTVA promotes veterans' issues within the State, holds an annual government relations day for State Legislators, and meets quarterly and is briefed by the VA Medical Centers in Tennessee, VA Service Officers and the TSVHB.

National Association of State Veterans Homes (NASVH) – The National Association of State Veterans Homes was established at a New England organizational meeting in 1952 because of a mutual need of State Veterans Homes to promote legislation on the national level and share common problems and experiences.

RELATIONSHIPS WITH HEALTH CARE INDUSTRY ORGANIZATIONS

Tennessee Health Care Association (THCA) – THCA is dedicated to helping maintain the high standards of licensed long-term care facilities in the Volunteer State. Provides consultation and training in long-term care. Lobbies state legislators for issues on care and reimbursement. Provides regularly scheduled training and education on issues pertaining to long-term care. Training satisfies the requirements for periodic licensed staff training. **American Health Care Association (AHCA)** – AHCA represents the long-term care community to the nation at large – to government, business leaders, and the general public. It also serves as a force for change within the long-term care field, providing information, education, and administrative tools that enhance quality at every level. Membership in the THCA carries an associated membership in the AHCA.

STATE LAW AND REGULATIONS APPLICABLE TO THE TSVHB

Tenn. Code Ann. Title 58, Chapter 7, Part 1: Establishes and governs the TSVHB.

Tenn. Code Ann. Title 4, Chapter 35, Part 1, a.k.a. the State of Tennessee Audit Committee Act of 2005, and the audit committee charter, govern the TSVHB Audit Committee.

Tenn. Code Ann. Title 8, Chapter 44, Part 1, a.k.a. the Tennessee Open Meetings Act.

Tenn. Code Ann. §§ 10-7-503 and 10-7-504, a.k.a. the Public Records Act.

Tennessee Constitution, Article I, § 17: "Suits may be brought against the State in such manner and in such courts as the Legislature may by law direct."

Tenn. Code Ann. ' 20-13-102(a): "No court in the state shall have any power, jurisdiction, or authority to entertain any suit against the state, or against any officer of the state acting by authority of the state, with a view to reach the state, its treasury, funds, or property, and all such suits shall be dismissed as to the state or such officers, on motion, plea, or demurrer of the law officer of the state, or counsel employed for the state."

Tenn. Code Ann. ' 9-8-307(h): "State officers and employees are absolutely immune from liability for acts or omissions within the scope of the officer's or employee's office or employment, except for willful, malicious, or criminal acts or omissions or for acts or omissions done for personal gain."

Tenn. Code Ann. Title 9, Chapter 8, Part 3: Tennessee Claims Commission has exclusive jurisdiction over claims to which the State has consented to be sued.

Tenn. Code Ann. § 4-3-304: Department of Audit can require that audits performed by internal auditors coordinate with Comptroller, and establish minimum standards for internal audits. Working papers created, obtained or compiled by internal auditors are not open records.

Tenn. Code Ann. § 4-3-306: State Funding Board statute.

Tenn. Code Ann. § 4-15-102: State Building Commission statute.

Tenn. Code Ann. § 9-3-211: Annual audit of financial records and transactions of all state departments, '. . . boards charged with care and control of public finds. Audit must be made and completed by end of succeeding year.

Tenn. Code Ann. § 12-4-109: Procurement of services.

Tenn. Code Ann. § 26-2-222: Garnishment of officers, employees, contractors and vendors of the State.

Tenn. Code Ann. Title 39, Chapter 17, Part 18: Non-Smoker Protection Act, prohibits smoking in all enclosed public places in the State, including lobbies, hallways, and common areas of nursing homes. Does not apply to residents of nursing homes and long-term care facilities licensed pursuant to Title 68, Chapter 11; resident smoking practices governed by facility policy and procedure.

Tenn. Code Ann. § 4-4-121: Smoking prohibited in all buildings owned or operated by State.

Tenn. Code Ann. § 50-3-101 *et seq.*: Tennessee Occupational Safety and Health Act

Tenn. Code Ann. Title 68, Chapter 11: Empowers the Tennessee Department of Health to license and regulate health care facilities and services, including nursing homes and hospice services.

Tenn. Comp. R. & Regs. Ch. 1200-8-6: Standards applied to nursing homes.

Linton law: Refers to *Linton v. Tennessee Commissioner of Health and Environment*, a Sixth Circuit federal case which established a single wait list of persons requesting admission to long-term care facilities participating in Medicaid program. Appears in Tenn. Comp. R. & Regs. Ch. 1200-13-1-.08 as wait list requirements and Ch. 1200-24-3 as guidance for assessing civil penalties pursuant to Tenn. Code Ann. § 68-1-113.

Tenn. Comp. R. & Regs. Ch. 1200-8-16: Civil rights compliance rules and regulations for Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.

Tenn. Code Ann. Title 71, Chapter 5, Part 14: Long-Term Care Community Choices Act of 2008 single entry point into the long-term care system/single entity responsible for coordinating all Medicaid benefits, including medical, behavioral, nursing facility, and home and community-based services.

Tenn. Code Ann. § 63-6-219: Tennessee Peer Review Law of 1967.

Tenn. Code Ann. Title 68, Chapter 11, Part 17: Tennessee Health Care Decisions Act.

Tenn. Code Ann. Title 32, Chapter 11, Part 1: Living Wills.

Tenn. Code Ann. Title 34, Chapter 6, Part 1: Uniform Durable Power of Attorney Act.

Tenn. Code Ann. Title 34, Chapter 6, Part 2: Durable Power of Attorney for Health Care.

Tenn. Code Ann. Title 34, Chapter 1: Conservatorships.

Tenn. Code Ann. Title 34, Chapter 5, Part 1: Uniform Veterans' Guardianship Law.

Tenn. Code Ann. Title 34, Chapter 7, Part 1: Public Guardianship for the Elderly.

Tenn. Code Ann. Title 71, Chapter 6, Part 1: Tennessee Adult Protection Act.

Tenn. Code Ann. § 71-2-109: Long-term care ombudsman.

TSVHB Policies and Procedures Manual.

FEDERAL LAW AND REGULATIONS APPLICABLE TO THE TSVHB

Amendment 11 of the U.S. Constitution: "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state."

29 U.S.C. § 651 *et seq.*: Occupational Safety and Health Act of 1970

29 U.S.C. § 794: Section 504 of the Rehabilitation Act of 1973. See also, 45 C.F.R., Part 84.

38 U.S.C. § 1741: Per Diem for Nursing Home Care of Veterans in State Homes. See also, 38 C.F.R. Parts 51 and 58.

42 U.S.C. § 12101 *et seq.*: The Americans With Disabilities Act of 1990 (ADA)

42 U.S.C. § 6101 *et seq.*: The Age Discrimination Act of 1975

42 U.S.C. § 1396r: Requirements for Nursing Facilities

42 U.S.C. § 1395i-3: Requirements for skilled nursing facilities

42 U.S.C. § 1997: Civil Rights of Institutionalized Persons Act (CRIPA)

42 U.S.C. § 2000d, Title VI of the Civil Rights Act of 1964: "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance." See also, 45 C.F.R., Part 80.

Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, 45 C.F.R. Parts 160 and 164.

16 C.F.R. §§ 681.1 and 681.2: Red Flag Identity Theft Regulation

42 C.F.R. Part 483: CMS Requirements for Long Term Care Facilities

Medicaid Provider Manuals

Medicare Provider Manuals

CMS State Operations Manual

Tennessee State Veterans' Homes Board
"Proudly Serving Those Who Served"
PO Box 11328, Murfreesboro, Tennessee 37129
Phone (615) 895-1181 * Fax (615) 898-1619

[Attachment cover]

Tennessee Department of Health on Linton Law

(Rule 1200-13-01-.05, continued)

Amendment filed February 27, 1991; effective April 13, 1991. Amendment filed April 1, 1991; effective May 16, 1991. Amendment filed June 12, 1991; elective July 27, 1991. Amendment filed November 22, 1991; effective January 6, 1992. Amendment filed April 29, 1992; effective June 13, 1992. Amendment filed May 1, 1992; effective June 15, 1992. Amendment filed October 8, 1992; effective November 22, 1992. Amendment filed October 26, 1992; effective December 10, 1992. Amendment filed November 17, 1993; effective January 31, 1994. Amendment filed March 11, 1994; effective May 25, 1994. Amendment filed March 18, 1994; effective June 1, 1994. Amendment filed May 2, 1994; effective July 16, 1994. Amendment filed November 10, 1994; effective January 24, 1995. Amendment filed March 3, 1995; effective June 15, 1995. Amendment filed June 29, 2000; effective September 12, 2000. Amendment filed August 21, 2001; effective November 4, 2001. Emergency rule filed March 1, 2010; effective through August 28, 2010. Amendment filed May 27, 2010; effective August 25, 2010. Emergency rule filed September 23, 2011; effective through March 21, 2012. Amendment filed December 15, 2011; effective March 14, 2012. Emergency rules filed June 29, 2012; effective through December 26, 2012.

1200-13-01-.06 SPECIAL FEDERAL REQUIREMENTS PERTAINING TO NURSING FACILITIES.

(1) Anti-discrimination.

No Medicaid-reimbursed resident of a NF shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination by any such facility.

(a) A NF may not directly or through contractual or other arrangements, on ground of race, color, or national origin:

1. Deny a Medicaid-reimbursed resident any service or benefit provided under the program.

2. Provide any service or benefit to a Medicaid-reimbursed resident which is different, or is provided in a different manner, from that provided to others under the program.

3. Subject a Medicaid-reimbursed resident to segregation or separate treatment in any matter related to the receipt of any service or benefit under the program.

4. Restrict a Medicaid-reimbursed resident in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit under the program.

5. Treat a Medicaid-reimbursed resident differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which the resident must meet in order to be provided any service or benefit provided under the program.

(b) A NF, in determining the types of services, or benefits which will be provided under any such program, or the Medicaid-reimbursed resident to whom, or the situations in which, such services or benefits will be provided under the program, or the Medicaid-reimbursed resident to be afforded an opportunity to participate in the program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting those residents to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishments of the objective of the program with respect to those residents of a particular race, color, or national origin.

(Rule 1200-13-01-.06, continued)

(c) As used in this rule, the services or benefits provided by a NF shall be deemed to include any service, or benefit provided in or through a facility participating in this program.

(d) The enumeration of specific forms of prohibited discrimination in this rule does not limit the generality of the prohibition in this rule.

(e) When a NF has previously discriminated against persons on the ground of race, color, or national origin, the facility must take affirmative action to overcome the effects of prior discrimination.

(f) Even in the absence of such prior discrimination, a facility may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, or national origin.

(2) Admissions, transfers, and discharges from NFs.

(a) All NFs shall establish written policies and procedures addressing admission, transfer and discharge, consistent with these rules. These policies and procedures shall be available for inspection by the state.

(b) A NF that has entered into a provider agreement with the Bureau of TennCare or an MCO shall admit individuals on a first come, first served basis, except as otherwise permitted by state and federal laws and regulations.

(c) NFs participating in the Medicaid Program shall not as a condition of admission to or continued stay at the facility request or require:

1. Transfer or discharge of a Medicaid-eligible resident because Medicaid has been or becomes the resident's source of payment for long-term care.

2. Payment of an amount from a Medicaid-eligible resident in excess of the amount of Patient Liability determined by DHS.

3. Payment in excess of the amount of Patient Liability determined by DHS from any resident who is financially eligible for medical assistance but who has not submitted a PAE for consideration or whose appeal rights for a denied PAE have not been exhausted.

4. Any person to forego his or her right to Title XIX Medical Assistance benefits for any period of time.

5. A third party (i.e. responsible party) signature, except as required of a court appointed legal guardian or conservator, or require payment of any kind by a third party on behalf of a Medicaid Eligible individual.

(d) NFs participating in the Medicaid Program must comply with the following guidelines regarding transfers, discharges and/or readmissions.

1. Transfer and Discharge Rights.

(i) A NF must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless:

(I) The transfer or discharge is necessary to meet the resident's welfare which cannot be met in the facility;

(II) The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

(III) The safety of individuals in the facility is endangered;

(IV) The health of individuals in the facility would otherwise be endangered;

(V) The resident has failed, after reasonable and appropriate notice, to pay (or to have paid under Title XIX or Title XVIII on the resident's behalf) for a stay at the facility; or

(VI) The facility ceases to operate.

(ii) In each of the cases described above, no resident shall be discharged or 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. Each NF shall establish a policy for handling residents who wish to leave the facility against medical advice. The basis for the transfer or discharge must be documented in the resident's clinical record. In the cases described in items (I) and (II) above, the documentation must be made by the resident's physician, and in the case described in item (IV) above, the documentation must be made by a physician. For purposes of item (V), in the case of a resident who becomes eligible for assistance under Title XIX after admission to the facility, only charges which may be imposed under Title XIX shall be considered to be allowable.

(iii) When a resident is transferred, a summary of treatment given at the facility, condition of resident at time of transfer and date and place to which transferred shall be entered in the record. If 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.

(iv) When a resident is transferred, a copy of the clinical summary should, with consent of the resident, be sent to the NF that will continue the care of the resident.

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

(I) The traumatic effect on the resident.

(II) The proximity of the proposed NF to the present facility and to the family and friends of the resident.

(III) The availability of necessary medical and social services at the proposed NF.

(IV) Compliance by the proposed NF with all applicable federal and State regulations.

2. Pre-Transfer and Pre-Discharge Notice. Before effecting a transfer or discharge of a resident, a NF must:

(Rule 1200-13-01-.06, continued)

(i) Notify the resident (and, if known, a family member of the resident or legal Representative) of the transfer or discharge and the reasons therefore.

(ii) Record the reasons in the resident's clinical record (including any documentation required pursuant to Part 1. above) and include in the notice the items described in Part 4. below.

(iii) Notify the Department of Health and the LTC Ombudsman.

(iv) Not transfer or discharge a resident until the above agencies have designated their intention to intervene and until any appeal process is complete, should the resident request a fair hearing.

3. Timing of Notice. The notice under Part 2. above must be made at least thirty (30) days in advance of the resident's transfer or discharge except:

(i) In a case described in Items 1200-13-01-.06(2)(d)1.(i)(III) and (IV).

(ii) In a case described in Item 1200-13-01-.06(2)(d)1.(i)(II) where the resident's health improves sufficiently to allow a more immediate transfer or discharge.

(iii) In a case described in Item 1200-13-01-.06(2)(d)1.(i)(I) where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs.

(iv) In a case where a resident has not resided in the facility for thirty (30) days.

In the case of such exceptions, notice must be given as many days before the date of transfer or discharge as is practicable.

4. Items included in notice. Each pre-transfer and pre-discharge notice under Part 2. above must include:

(i) Notice of the resident's right to appeal the transfer or discharge.

(ii) The name, mailing address, and telephone number of the LTC Ombudsman.

(iii) In the case of residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy system for developmentally disabled individuals.

(iv) In the case of mentally ill residents, the mailing address and telephone number of the agency responsible for the protection and advocacy system for mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

5. Orientation. A NF must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer discharge from the facility.

6. Notice of Bed-Hold Policy and Readmission. Before a resident of a NF is transferred for hospitalization or therapeutic leave, a NF must provide written information to the resident and a family member or legal representative concerning:

(i) The provisions of the State Plan under this Title XIX regarding the period (if any) during which the resident will be permitted under the State Plan to return and resume residence in the facility, and

(ii) The policies of the facility consistent with Part 7. below, regarding such a period.

7. Notice Upon Transfer. At the time of transfer of a resident to a hospital or for therapeutic leave, a NF must provide written notice to the resident and a family member or legal representative of the duration of any period under the State Plan allowed for the resumption of residence in the facility.

(e) NFs participating in the Medicaid Program must establish and follow a written policy under which an Enrollee, whose hospitalization or therapeutic leave exceeds the bed hold period, is readmitted to the NF immediately upon the first availability of a bed in a semi-private room if the Enrollee:

1. Requires the services provided by the NF; and

2. Is eligible for the level of NF care services.

(3) Single Wait List.

(a) Each NF participating in the TennCare must develop and consistently implement policies and procedures regarding its admissions, including the development and maintenance of a single Wait List of persons requesting admission to those facilities. This list must at a minimum contain the following information pertaining to each request for admission:

1. The name of the applicant.

2. The name of the contact person or designated representative other than the applicant (if any).

3. The address of the applicant and the contact person or designated representative (if any).

4. The telephone number of the applicant and the contact person or designated representative (if any).

5. The name of the person or agency referring the applicant to the NF.

6. The sex and race of the applicant.

7. The date and time of the request for admission.

8. Reason(s) for refusal/non-acceptance/other-action-taken pertaining to the request for admission.

9. The name and title of the NF staff person taking the application for admission.

10. A notation stating whether the applicant is anticipated to be Medicaid eligible at time of admission or within one year of admission.

(Rule 1200-13-01-.06, continued)

(b) The Wait List should be updated and revised at least once each quarter to remove the names of previous applicants who are no longer interested in admission to the NF. Following three (3) contacts each separated by a period of at least ten (10) days, the NF shall, consistent with the written notice required in this section move an applicant to the end of the single admission list whenever an available bed is not accepted at the time of the vacancy, but the applicant wishes to remain on the admissions list. Applicants shall be advised of these policies at the time of their inquiry, and must be notified in writing, in a format approved by the Department of Health, when their name is removed from the list or moved to the end of the list. Such contacts shall be documented in the facility log containing the Wait List. The date, time and method of each contact shall be recorded along with the name of the facility staff person making the contact, and the identity of the applicant or contact person contacted. The log of such contacts shall also summarize the communication between the facility staff person and the applicant or contact person.

(c) Each facility shall send written confirmation that an applicant's name has been entered on the Wait List, their position on the wait list, and a notification of their right of access to the wait list as provided in Subparagraph (h) of this Rule. This confirmation shall include at a minimum the date and time of entry on the wait list and shall be mailed by first class postage to the applicant and their designated representative (if any) identified pursuant to the requirements in Subparagraph (a) of this Rule.

(d) Each NF participating in TennCare shall admit applicants in the chronological order in which the referral or request for admission was received by the facility, except as permitted in Subparagraph (e) of this Rule.

(e) Documentation justifying deviation from the order of the Wait List must be maintained for inspection by the State. Inspection shall include the right to review and/or make copies of these records. Deviation may be based upon:

1. Medical need, including, but not necessarily limited to, the expedited admission of patients being discharged from hospitals and patients who previously resided in a NF at a different level of care, but who, in both cases, continue to require institutional medical services;

2. The applicant's sex, if the available bed is in a room or a part of the facility that exclusively serves residents of the opposite sex;

3. Necessity to implement the provisions of a plan of affirmative action to admit racial minorities, if the plan has previously been approved by the Department of Health;

4. Emergency placements requested by the Department when evacuating another health care facility or by the Adult Protective Service of the Tennessee Department of Human Services;

5. Other reasons or policies, e.g., previous participation in a community based waiver or other alternative care program, when approved by the Medical Director of the Department of Health's Bureau of Health Licensure and Regulation, provided, however, that no such approval shall be granted if to do so would in any way impair the Department's or the facility's ability to comply with its obligations under federal and state civil rights laws, regulations or conditions of licensure or participation.

6. If a Medicaid-eligible recipient's hospitalization or therapeutic leave exceeds the period paid for under the Tennessee Medicaid program for the holding of a bed

(Rule 1200-13-01-.06, continued)

in the facility for the resident and if the resident continues to require the services provided by the NF, then the resident must be readmitted to the facility immediately upon the first availability of a bed in the facility, consistent with Part 2. above;

7. Where, with the participation and approval of the Department of Health, expedited admission is approved for residents who are being displaced from another facility or its waiting list as a result of that facility's withdrawal from the Medicaid program.

(f) Telephone requests to be placed on the Wait List shall be accepted. The information required in Subparagraph (a) of this Rule shall be documented.

(g) If an applicant, whether on his own behalf or acting through another, requests admission or to be placed on a list of applicants awaiting admission, the information on the waiting list must be recorded and preserved.

(h) Applicants or their representatives shall have the right to be informed by telephone of their position on the Wait List. Ombudsmen and appropriate State and federal personnel shall have access to the Wait List when requested, and such access shall include the right to review and/or copy the Wait List.

(i) Any referrals received from the DHS shall be handled in the following manner.

1. Applicants shall be placed on a Wait List without formal application until such facility is within sixty (60) days of admission to the facility based on experience.

2. When the applicant is within sixty (60) days of admission to the facility as estimated by the facility based on its experience, the facility shall notify the applicant and DHS in writing so that a formal application can be made prior to consideration for admittance.

3. If, after sixty (60) days from the date notification is issued, the facility has not received a completed application then the facility may remove the applicant's name from the Wait List.

(4) Physician visits.

(a) NFs are responsible for assuring that physician visits are made according to the schedule set out at 42 C.F.R. § 483.40. To meet the requirement for a physician visit, the physician must, at the time of the visit,

1. See the resident;

2. Review the resident's total program of care, including treatments;

3. Verify that the resident continues to need the designated level of NF care and document it in the progress notes or orders;

4. Write, sign, and date progress notes; and

5. Sign all orders.

(b) At the option of the physician, required visits after the initial visit may alternate between visits by a physician and visits by a physician assistant or nurse practitioner working under the physician's delegation.

(Rule 1200-13-01-.06, continued)

(c) A physician visit will be considered to be timely if it occurs not later than ten (10) days after the date of the required visit. Failure of the visit to be made timely will result in non-payment of claims, or a recoupment of all amounts paid by the Bureau or the MCO during the time that the physician visit has lapsed.

(d) NFs are responsible for assuring that the physician verify at the time of each physician's visit the Medicaid recipient's continued need for NF LOC and whether or not he is being served at the appropriate LOC.

1. Failure to obtain the verification at the time of the scheduled physician visit may result in a recoupment of all amounts paid by the Bureau or the MCO during the time that the verification/physician visit has lapsed.

2. If such a recoupment is made, the participating facility shall not:

(i) Attempt to recoup from the resident; or

(ii) Discharge the resident based on the recoupment.

3. In cases where the physician refused to make the required verification because the physician believes that the LOC is no longer appropriate, a new resident assessment must be completed by the NF.

(5) Termination of NF provider agreements.

(a) Facilities requesting voluntary termination of provider agreements shall comply with the following:

1. Facilities that choose to voluntarily terminate their provider agreements may do so by notifying the Bureau or the MCO(s) in writing of such intent. The effective date of the termination will be determined by the Bureau consistent with the terms of the TennCare Provider Agreement then in force between the Bureau or the MCO(s) and the facility.

2. The facility will not be entitled to payment for any additional or newly admitted TennCare eligible residents from the date of the facility's notice of withdrawal from the TennCare Program. The facility may, however, at its election, continue to receive TennCare payment for those individuals who resided in the facility, on the date of such notice, so long as they continue to reside in and receive services from the facility and provided that such individuals are TennCare-eligible during the period for which reimbursement is sought. The facility's right to continue to receive TennCare payments for such individuals following the date of its notice of intent to withdraw from the TennCare program is contingent upon:

(i) The facility's compliance with all requirements for TennCare participation; and

(ii) Its agreement to continue to serve, and accept TennCare payment for, on a non-discriminatory basis, all individuals residing in the facility on the date of notification of withdrawal, who are or become TennCare eligible.

3. The notification must provide the following information:

(i) The reason(s) for voluntary termination;

(Rule 1200-13-01-.06, continued)

(ii) The names and TennCare identification numbers of all TennCare-eligible residents;

(iii) Name of the resident and name of the contact person for the resident (if any) for each resident with an application for TennCare eligibility pending;

(iv) A copy of the letter the facility will send to each resident informing him of the voluntary termination, and a copy of the letter to be sent to all TennCare-eligible residents regarding this action;

(v) A copy of the letter sent to all applicants on the Wait List informing them of the facility's voluntary termination;

(vi) Whether or not the facility intends to continue to provide services to non-TennCare residents who were residents of the facility on the date withdrawal was approved, in the event they convert to TennCare eligibility; and a copy of the notice to residents explaining that decision; and,

(vii) Other information determined by the Bureau or the MCOs as necessary to process the request for termination.

4. The termination of the provider's involvement in TennCare must be done in such a manner as to minimize the harm to current residents.

(i) Residents who are currently TennCare-eligible shall be informed, in a notice to be provided by the facility and approved by the Bureau, that the facility has elected to withdraw from the TennCare program. If the facility has elected under Subpart (ii) of the section to continue to receive TennCare payments for residents of the facility as of the date of notice of withdrawal from the TennCare Program, the notice shall inform the resident of the right to remain in the facility as a TennCare resident as long as he wishes to do so and remain otherwise eligible under the rules of the TennCare Program. The notice shall also inform the resident that, if he wishes to transfer to another facility, under the supervision of TennCare, the NF where he now resides will assist in locating a new placement and providing orientation and preparation for the transfer, in accordance with 42 U.S.C.A. §1396r(c)(2)(B) and implementing regulations and guidelines, if any.

(ii) All other residents of the facility shall receive a separate notice informing them of the facility's intention to withdraw from the TennCare program. The notice will be provided by the facility after having been first reviewed and approved by the Bureau. The notice shall inform such residents that, should they become eligible for TennCare coverage, they will be able to convert to TennCare from their current source of payment and remain in the facility only during a period that ends with the termination of the facility's provider agreement, a date to be determined in accordance with the terms of the provider agreement. They will not be eligible for TennCare coverage of their care in the facility thereafter. Transfer of these residents shall be considered an involuntary transfer and shall comply with federal and State regulations governing involuntary transfer or discharges.

The same notice will caution these residents that, if they require care as TennCare residents after the facility's provider agreement is terminated, they will have to transfer to another facility. The notice will also inform the residents that, when their present facility is no longer participating in the

(Rule 1200-13-01-.06, continued)

TennCare program, certain legal rights and protections that apply to all residents (regardless of source of payment) in TennCare facilities will no longer be available to those who remain in the NF. Readers of the notice will be informed that, if they wish to transfer, or to have their names placed on Wait Lists at other facilities, the facility that is withdrawing from the program will assist them by providing preparation and orientation under the supervision of the Bureau, as required by 42 U.S.C.A. § 1396r(c)(2)(B) and implementing regulations and guidelines, if any.

(iii) Applicants whose names are on the facility's Wait List will be notified by the facility on a form that has been reviewed and approved by the Bureau that the facility intends to withdraw from the TennCare Program. They will be cautioned that they will not be able to obtain TennCare coverage for any care that they receive in the facility. The notice shall also inform them that certain legal rights and protections that apply to all residents (regardless of source of payment) in TennCare participating facilities will not be available in the NF to which they have applied, once that facility has withdrawn from the TennCare program.

Applicants shall be informed in the notice that, if they wish to make application at other facilities, the withdrawing facility, under the supervision of TennCare, shall assist them in seeking placement elsewhere.

5. Following submission of a notice of withdrawal from the TennCare Program a facility cannot opt to receive continued TennCare payments for any resident unless it agrees to accept continual TennCare payment for all individuals who are residents on the date of the notice of withdrawal, and who are or become TennCare-eligible provided, however, that the Bureau or the Enrollee's MCO will pay the facility for all covered services actually provided to TennCare-eligible residents following notice of the facility's withdrawal and pending the resident's transfer or discharge. In instances where facilities elect to continue to receive such TennCare payments, their provider agreements will remain in effect until the last TennCare-eligible individual, who resided in the facility as of the date of notification of withdrawal, has been discharged or transferred from the facility in accordance with TennCare and State licensure requirements.

6. Facilities which terminate their provider agreement shall not be permitted to participate in TennCare for a period of at least two (2) years from the date the provider agreement is terminated.

7. Unless the facility notifies the Bureau within thirty (30) days after giving a notice of termination, the facility may not stop the termination procedure consistent with this order without written approval from the Bureau.

(b) NFs may be involuntarily decertified by the Tennessee Department of Health's Division of Health Care Facilities because of their failure to comply with the provisions of these rules. Facilities that are involuntarily decertified shall not be permitted to participate in the Medicaid program for a minimum of five (5) years from the date of the decertification.

Authority: *T.C.A. §§ 4-5-202, 4-5-208, 12-4-301, 71-5-105, 71-5-109, and Executive Order No. 23.* ***Administrative History:*** *Original rule filed November 17, 1977; effective December 19, 1977. Amendment filed January 31, 1979; effective March 16, 1979. Amendment filed August 31, 1981; effective October 15, 1981. Amendment filed September 16, 1981; effective November 2, 1981. Amendment filed November 6, 1981; effective December 21, 1981. Amendment filed August 18, 1982; effective September 17, 1982. Amendment filed September 2, 1982; effective October 4, 1982.*

(Rule 1200-13-01-.06, continued)
Amendment filed September 27, 1982; effective October 27, 1982. Amendment filed November 12, 1982; effective December 13, 1982. Amendment filed June 23, 1983; effective July 25, 1983. Amendment filed August 31, 1983; effective September 30, 1983. Amendment filed March 12, 1984; effective April 11, 1984. Amendment filed June 27, 1984; effective July 27, 1984. Amendments filed March 27, 1985; effective April 26, 1985. Amendment filed June 4, 1985; effective July 4, 1985. Amendment filed September 18, 1985; effective October 18, 1985. Amendment filed April 29, 1986; effective May 29, 1986. Amendment filed June 30, 1986; effective July 30, 1986. Amendment filed July 17, 1986; effective August 31, 1986. Amendment filed September 2, 1986; effective October 17, 1986. Amendment filed July 30, 1987; effective September 13, 1987. Amendment filed September 30, 1987; effective November 14, 1987. Amendment filed February 19, 1988; effective April 4, 1988. Amendment filed June 2, 1988; effective July 17, 1988. Amendment filed September 6, 1988; effective October 21, 1988. Amendment filed November 10, 1988; effective December 25, 1988. Amendment filed March 22, 1989; effective May 8, 1989. Amendment filed June 22, 1989; effective August 4, 1989. Amendment filed June 29, 1989; effective August 14, 1989. Amendment filed July 26, 1989; effective September 10, 1989. Amendment filed August 31, 1989; effective October 15, 1989. Amendment filed October 11, 1989; effective November 25, 1989. Amendment filed November 30, 1989; effective January 14, 1990. Amendment filed December 8, 1989; effective January 22, 1990. Amendments filed January 29, 1990; effective March 15, 1990. Amendment filed July 5, 1990; effective August 19, 1990. Amendment filed August 17, 1990; effective October 1, 1990. Amendment filed November 27, 1990; effective January 11, 1991. Amendment filed December 14, 1990; effective January 28, 1991. Amendment filed January 16, 1991; effective March 2, 1991. Amendment filed February 19, 1991; effective April 5, 1991. Amendment filed February 26, 1991; effective April 12, 1991. Amendment filed May 7, 1991; effective June 21, 1991. Amendment filed June 12, 1991; effective July 27, 1991. Amendment filed June 14, 1991; effective July 29, 1991. Amendment filed September 16, 1991; effective October 31, 1991. Amendment filed September 17, 1991; effective November 1, 1991. Amendment filed September 30, 1991; effective November 14, 1991. Amendment filed October 14, 1991; effective November 28, 1991. Amendment filed October 21, 1991; effective December 5, 1991. Amendment filed October 23, 1991; effective December 7, 1991. Amendment filed March 10, 1992; effective April 24, 1992. Amendment filed March 26, 1992; effective May 10, 1992. Amendment filed April 29, 1992; effective June 13, 1992. Amendment filed September 29, 1992; effective November 13, 1992. Amendment filed October 20, 1992; effective December 4, 1992. Amendment filed December 7, 1993; effective February 20, 1994. Amendment filed March 18, 1994; effective June 1, 1994. Amendment filed May 25, 1994; effective August 9, 1994. Amendment filed November 10, 1994; effective January 24, 1995. Amendment filed August 1, 1995; effective October 14, 1995. Amendment filed October 20, 1995; effective January 3, 1996. Amendment filed July 15, 1996; effective September 28, 1996. Amendment filed April 20, 1998; effective July 4, 1998. Amendment filed October 14, 1998; effective December 28, 1998. Amendment filed January 3, 2000; effective March 18, 2000. Amendment filed June 22, 2000; effective September 5, 2000. Amendment filed January 9, 2002; effective March 25, 2002. Amendment filed July 24, 2003; effective October 7, 2003. Public necessity rule filed July 1, 2005; effective through December 13, 2005. Public necessity rule filed September 26, 2005; effective through March 10, 2006. Amendments filed December 20, 2005; effective March 5, 2006. Amendment filed January 16, 2006; effective April 1, 2006. Amendment filed July 17, 2007; effective September 30, 2007. Emergency rule filed March 1, 2010; effective through August 28, 2010. Amendment filed May 27, 2010; effective August 25, 2010.

1200-13-01-.07 REPEALED

Authority: *T.C.A. §§ 4-5-202, 71-5-105, 71-5-109 and Public Chapter 358 of the Acts of 1993.*
Administrative History: *Original rule filed November 17, 1977; effective December 19, 1977. Amendment filed January 31, 197; effective March 16, 1979. Amendment filed June 23, 1983; effective July 25, 1983. Amendment filed June 27, 1984; effective July 27, 1984. Amendment filed May 8, 1985; effective August 13, 1985. Amendment filed April 29, 1986, effective May 29, 1986. Amendment filed January 22, 1988; effective March 7, 1988. Amendment filed January 30, 1989; effective March 16, 1989. Amendment filed January 29, 1990; effective March 15, 1990. Amendment filed February 23, 1990; effective April 9, 1990. Amendment filed July 5, 1990; effective August 19, 1990. Amendment filed August 30, 1990; effective October 14, 1990. Amendment filed October 30, 1990; effective December 14, 1990. Amendment filed January 9, 1991; effective February 23, 1991. Amendment filed February 27,*

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

CHAPTER 1200-8-16
CIVIL RIGHTS COMPLIANCE
RULES AND REGULATIONS

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1200-8-16-.01 DEFINITIONS.

(1) *Health Care Facility (Facility):* Any facility licensed under the authority of the Board for Licensing Health Care Facilities as defined in T.C.A. §68-11-102.

(2) *Civil Rights:* Personal and individual rights guaranteed by the federal or state constitution and/or any federal or state statute.

(3) *Commissioner:* The Commissioner of the Tennessee Department of Health or his designated representative.

(4) *Department:* Tennessee Department of Health.

(5) *Board:* Board for Licensing Health Care Facilities.

(6) *Title VI:* Title VI of the Civil Rights Act of 1964, 45 C.F.R., Part 80.

(7) *Section 504:* Section 504 ofthe Rehabilitation Act of 1973, 45 C.F.R., Part 84.

(8) *Handicapped Person:* means any person who (a) has a physical or mental impairment which substantially limits one or more major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment.

(9) *Qualified Handicapped Person:* (a) With respect to receiving services, means a handicapped person who meets the eligibility requirements for receiving services offered by the facility; (b) with respect to employment, means a handicapped person who, with reasonable accommodations, can perform the essential functions of the job in question without undue hardship to the facility. Reasonable accommodations may include: Making facilities readily accessible to and usable by handicapped persons; Providing part-time or modified work schedules; and, providing readers or interpreters. In determining whether an accommodation would result in an undue hardship on the facility, factors to be considered may include: The overall size of the facility with respect to number of employees, number and type of facilities, and size of budget; and type of facility, including the composition and structure of the facility's workforce; and, the nature and cost of the accommodation needed.

(10) *Physical or Mental Impairment:* means (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskelatal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (b) any mental or psychological disorder, such as mental retardation organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(Rule 1200-8-16-.01, continued)

(11) *Discrimination:* Any act, policy, practice, or procedure which result in different treatment based on race, color, national origin or handicapping condition that impacts negatively upon qualified handicapped individuals and others protected under Title VI of the Civil Rights Act of 1964.

(12) *Office on Civil Rights Compliance (OCRC):* The administrative unit established within the Tennessee Department of Health charged with the responsibility of monitoring and investigating complaints related to civil rights compliance of facilities regulated by the Board.

(13) *Minority.* Persons who fall within the following categories: Black, not of Hispanic origin; Hispanic; American Indian; Asian or Pacific Islander.

Authority: *T.C.A. §§68-1-113, 68-11-102, 68-11-203, 4-5-202, 45 C.F.R., Part 80 and 45 C.F.R., Part 84.*
Administrative History: *Original rule filed November 21, 1990; effective January 5, 1991.*

1200-8-16-.02 REQUIREMENTS FOR CIVIL RIGHTS COMPLIANCE.

The Board for Licensing Health Care Facilities may deny, suspend, or revoke a facility's license, or otherwise discipline the facility for violations of the following requirements pursuant to T.C.A. §§68-*11*-207 and 68-1-113. Licensed health care facilities must comply with the following:

(1) Shall not directly or through licensing, contractual or other arrangements, utilize criteria or methods of administering services which have the effect of subjecting individuals to discrimination on the basis of race, color, national original or handicapped condition.

(2) Admission policies and procedures shall include measures to admit patients/residents to the facility without regard to race, color, national origin or handicapping condition.

(3) Shall include in their operational policies and procedures manuals measures to provide all services in a nondiscriminatory manner (i.e. medical, dental, nursing, laboratory, pharmacy, skilled rehabilitative, social, volunteer, dietary and housekeeping).

(4) Physical facilities including lounges, dining facilities, beauty and barber shops shall not be used in a segregated or discriminatory manner.

(5) Shall include in their operational policies and procedures manuals that patients/residents are assigned to rooms, wards, floors, sections, buildings, and other areas without regard to race; color; national origin; or handicapping conditions if medically indicated,

(6) Shall include in their operational policies and procedures manuals that a aspects of all their training programs -those operated by the facility, and those operated by other institutions within their facility for which the facility provides clinical training are conducted without discrimination, on the basis of race, color, national origin or handicapping condition.

(7) Shall use all reasonable efforts to recruit minority and handicapped persons to training programs offered by the facility.

(8) Shall inform all patients/residents, potential patients/residents, and the general public that admissions and services are provided on a non-discriminatory basis. This shall be accomplished by:

(Rule 1200-8-16-.02, continued)

(a) If a facility publishes or uses brochures, pamphlets and newsletters which are designed to acquaint potential patients/residents and members of the general public with the facility's programs and services, a statement of the facility's commitment and compliance to Title VI and Section 504 must be included. All efforts to communicate to the public should convey the message that services are provided in a nondiscriminatory manner.

(b) Including a statement of the facility's commitment and compliance to Title VI and Section 504 on all application forms for admission and employment.

(c) Notifying all customary referral sources and the minority community within the service area that the facility's services and benefits are provided in a non-discriminatory manner.

(d) Displaying in prominent places in the facility notices indicating the Title VI and Section 504 compliance and commitment.

(9) Shall be responsible for conveying to all staff their non-discriminatory policy and how to file a complaint under Title VI or Section 504. This shall be accomplished by providing, as part of new employee's orientation and periodic retraining of permanent employees, information regarding the obligation, intent, and meaning of Title VI and Section 504 compliance.

(10) Those facilities with fifteen or more employees shall designate a responsible employee (Section 504 Coordinator) to coordinate its efforts to comply with Section 504 regulations.

(11) Shall establish and adhere to an internal procedure for handling patient/resident and employee grievances. The grievance procedure shall include:

(a) Complainant's right to due process.

(b) Time frames for the review, resolution and/or findings process.

(12) Shall ensure that the opportunity to participate as members of planning, advisory, and policy boards whose membership is opened to the public, is available in a non-discriminatory manner.

(13) Shall develop procedures for monitoring all aspects of its operation to ensure that no policy or practice is, or has the effect of discriminating against applicants, patients/residents, employees or other participants on the basis of race, color, national origin, or handicapping condition. Each facility shall establish a system to review annually all new and existing policies to determine compliance with such policies with Title VI and Section 504.

(14) Shall maintain and make available to the OCRC for the purpose of demonstrating compliance and upon request, all data and information necessary to determine the facility's compliance with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. Such statistical data shall include racial and ethnic data showing the extent to which minority and handicapped individuals participate in the facility's services and programs.

(15) All recruitment and employment practices shall not discriminate on the basis of race, color, national origin, handicapping condition, or have an adverse effect on the provision of services, privileges, or advantages offered to the facility's patients/residents.

(16) Shall include in their operational policies and procedures manuals a procedure for effective communication with handicapped persons and persons with limited English proficiency for

(Rule 1200-8-16-.02, continued)

the purpose of giving notice concerning benefits, services, waiver of rights, and consent to treatment, including emergency treatment.

(17) Shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from services provided by the facility. Auxiliary aids may include information in braille, taped material and interpreters.

(18) Shall include in assurance of compliance with Title VI and Section 504 in all contracts with service agencies, health care providers and other health care facilities, eg. "services will be provided in a non-discriminatory manner without regard to race, color, national origin or handicapped condition."

Authority: *T.C.A. §§68-1-113, 68-11-102, 68-11-203, 4-5-202, 45 C.F.R., Part 80 and 45 C.F.R., Part 84.*
Administrative History: *Original rule filed November 21, 1990; effective January 5, 1991.*

1200-8-16-.03 MONITORING PROCEDURES.

(1) Periodic compliance reviews.

The Office on Civil Rights Compliance shall have the authority to periodically review the practices of facilities to determine compliance with these regulations. Whenever a deficiency in compliance is cited by OCRC, a deficiency report shall be submitted to the facility. The facility shall develop and implement an acceptable plan of correction, specifying steps to correct the deficiencies and the time frame in which corrective measures will be taken. An acceptable plan of correction must be returned to OCRC no later than ten (10) days after receipt of the deficiency report, unless an extension is granted by the Director of OCRC or his/her designee. Documentation of already corrected deficiencies may be submitted with the plan of correction. The plan must be approved by the Director of OCRC, or his/her designee.

(2) Non-Compliance Investigations.

The Office on Civil Rights Compliance shall have the authority to conduct an investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with State and federal law, and these regulations.

(3) Complaints. Complaints involving discrimination prohibited by State and federal law may be filed with the Office on Civil Rights Compliance by the complainant or his or her representative. The identity of complainants shall be kept confidential to the extent the law permits.

(4) Intimidatory or Retaliatory Acts Prohibited.

No health care facility shall retaliate against or, in any manner, discriminate against any person because of a compliant made in good faith and without mace to the Board or the Department, or other agency having jurisdiction in the matter. A health care facility shall neither retaliate, nor discriminate against the compliant because of information provided to these authorities.

(Rule 1200-8-16-.04, continued)

Authority: *T.C.A. §§68-1-113, 68-11-102, 68-11-203, 4-5-202, 45 C.F.R., Part 80 and 45 C.F.R., Part 84.* ***Administrative History:*** *Original rule filed November 21, 1990; effective January 5, 1991.*

1200-8-16-.04 CORRECTIVE ACTION.

If the facility has discriminated, or policies and procedures have resulted in discrimination against persons on the ground, of race, color, national origin or handicapping condition, the facility must take action that will result in correcting the deficiency or the discriminatory act.

Authority: *T.C.A. §§68-1-113, 68-11-102, 68-11-203, 4-5-202, 45 C.F.R., Part 80 and 45 C.F.R., Part 84.* ***Administrative History:*** *Original rule filed November 21, 1990; effective January 5, 1991.*

RULES
OF
THE DEPARTMENT OF HEALTH
OFFICE ON CIVIL RIGHTS COMPLIANCE

CHAPTER 1200—24—3
CIVIL RIGHTS COMPLIANCE PENALTY PROGRAM
RULES AND REGULATIONS

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1200—24—3—.01 PURPOSE.

The purpose of these rules is to provide regulatory guidance for assessing civil penalties pursuant to *T.C.A. §68—1—113.* The rules apply only to nursing homes as defined at *T.C.A. §68—11—201* and licensed by the department for the purpose of assisting in enforcing compliance with Title VI of the Civil Rights Act of 1964, as amended and requirements of *Linton v. Commissioner,* M.D. Tenn., No. 3—87—0941.

Authority: *T.C.A. §§4—3—1803(1), 68—1—103(b), 68—1—113 and 4—5—209.* ***Administrative History:*** *Original rule filed February 22, 1991; effective April 8, 1991.*

1200—24—3—.02 DEFINITIONS.

(1) HEALTH CARE FACILITY: Any facility licensed under the authority of the Board for Licensing Health Care Facilities as defined in *T.C.A. §68-11-201.*

(2) CIVIL RIGHTS: Personal and individual rights guaranteed by the federal or state constitution and/or any federal or state statute.

(3) COMMISSIONER: The commissioner of the Tennessee Department of Health or his designated representative.

(4) DEPARTMENT: Tennessee Department of Health

(5) TITLE VI: Title VI of the Civil Rights Act of 1964, as amended (42 USC §2000d).

(6) MINORITY: Persons who fall within the following categories: Black, not Hispanic origin; Hispanic; American Indian; Alaskan Native; Asian or Pacific Islander.

(7) DISCRIMINATION: Any act, policy, practice, or procedure which results in different treatment based on race, color, national origin or method of payment that impacts adversely upon minorities and others protected under Title VI of the Civil rights Act of 1964.

(8) OFFICE ON CIVIL RIGHTS COMPLIANCE (OCRC): The administrative, regulatory and enforcement unit established within the Department of Health charged with the responsibility of monitoring and investigating complaints related to civil rights compliance of facilities regulated by the Board.

Authority: *T.C.A. §§4—3—1803(1), 68—1—103(b), 68—1—113 and 4—5—209.* ***Administrative History:*** *Original rule filed February 22, 1991; effective April 8, 1991.*

1200—24—3—.03 SANCTIONS.

(1) Pursuant to T.C.A. §68—1—113, the Commissioner of the Department of Health shall have the authority to impose civil penalties upon deficient health care facilities licensed as nursing homes. Based upon the investigation of the Office on Civil Rights Compliance and the severity of the discriminatory practice, the Commissioner may impose civil penalties as provided in this section. Civil penalties may be assessed in minimum and maximum amounts as follows:

(a) Type I civil penalties may be assessed in the amount of not less than three thousand five hundred dollars ($3,500) and not more than five thousand dollars ($5,000);

(b) Type II civil penalties may be assessed in the amount of not less than one thousand five hundred dollars ($1,500) and no more than three thousand five hundred dollars ($3,500).

(c) Type III civil penalties may be assessed in the amount of not less than five hundred dollars ($500) and no more than one thousand five hundred dollars ($1,500).

Authority: *T.C.A. §4—3—1803(1), 68—1—103(b), 68—1—113 and 4—5—209.* ***Administrative History:*** *Original rule filed February 22, 1991; effective April 8, 1991.*

1200—24—3—.04 TYPES OF CIVIL PENALTIES.

(1) A Type I civil penalty may be assessed if the health care facility engages in discrimination which impacts negatively on the health, safety and welfare of multiple minority patients. Examples of practices which may lead to the imposition of a Type I civil penalty are:

(a) Denying persons admission to the facility on the basis of race, color, and national origin, or method of payment as provided by state or federal law, rules or regulations.

(b) Transferring multiple patients from one room to another on the basis of racial or source of payment considerations (except for affirmative action remedies which pose no risk to patients and as otherwise permitted by law).

(c) Clustering patients on the basis of race, color, or national origin or source of payment, except as otherwise permitted by law, on specific floors, sections, or wings of the facility.

(d) Not admitting applicants to a facility on a first come first serve basis as required by State or Federal laws, rules or regulations.

(e) Retaliating against residents or staff because of complaints made to the Department.

(2) A Type II civil penalty may be assessed if the Health Care Facility engages in discrimination as defined by these rules, which impacts upon a single minority patient, and the facility refuses to correct the violation. Examples of practices which may lead to the imposition of a Type II civil penalty are:

(a) Denial of admission of a single individual on the basis of race, color, or national origin or method of payment as provided by state or federal law or rules or regulations.

(b) Assigning a room or transferring a single individual on the basis of race, color or national origin or method of payment contrary to state or federal law, rules or

regulations.

(c) Providing segregated services, e.g., beauty and barbershops, dining rooms, lounges.

(d) Denial of an individual the opportunity to participate on a planning or advisory board on the basis of race, color, national origin, or method of payment as required by state or federal law, rules or regulations.

(e) Retaliating against an individual resident or staff member because of complaints made in good faith to the Department.

(3) A Type II civil penalty may be assessed for civil rights violations that do not directly involve a specific individual. Examples which may lead to a Type III civil penalty may include:

(a) Failure to develop and submit an acceptable plan of correction as required.

(b) Failure to maintain and make available to the OCRC for the purpose of demonstrating compliance and upon request, all data and information necessary to determine the facility's compliance with Title VI.

(c) Failure to notify, as required by state or federal law, rules or regulations, referral sources and the minority community that services are provided in a non-discriminatory manner.

(d) Failure to display in prominent places the compliance statements required by state or federal law, rules or regulations.

(e) Failure to make adequate or appropriate notification of the facility's commitment to providing services in a non-discriminatory manner as required by state or federal law, rules or regulations.

(f) Failure to include a non-discriminatory statement in all vendor contracts and brochures and other information distributed to the public as required by state or federal law, rules or regulations.

Authority: *T.C.A. §§4—3—1803(1), 68—1—103(b), 68—1—113 and 4—5—209.* ***Administrative History:*** *Original rule filed February 22, 1991; effective April 8, 1991.*

1200—24—3—.05 HEARINGS AND APPEALS.

Any facility that is aggrieved by action of the Commissioner pursuant to these rules, may, within thirty (30) days of receipt of a penalty assessment, request a hearing before the Commissioner or his designee. All hearings shall be conducted pursuant to the Uniform Administrative Procedures Act, Title 4, Chapter 5, Part 3. A properly perfected appeal stays the running of a daily assessment of civil penalty.

Authority: *T.C.A. §§4—3—1803(1), 68—1—103(b), 68—1—113 and 4—5—209.* ***Administrative History:*** *Original rule filed February 22, 1991; effective April 8, 1991.*

Operations - Quality Assurance

POLICY

It is the policy of TSVH to implement and maintain a quality assurance program in order to better serve the residents and staff of TSVH. The quality assurance program shall be accessible to all employees, residents, and families.

The Quality Assurance program is an avenue for employees, residents, and families to resolve issues and provide input regarding the quality of care and operational efficiency. By maintaining and improving quality the quality assurance program has a direct impact on the resident's quality of life.

The Quality Assurance program includes (not all inclusive) the following components:

- ☐ Infection control
- ☐ Clinical quality concerns and issues
- ☐ Employee safety
- ☐ Resident safety
- ☐ Incident reporting, tracking, and investigation
- ☐ Medical supply and equipment evaluation and assessment
- ☐ Operational and organizational efficiency
- ☐ Resident, family, and employee satisfaction
- ☐ Alleged resident abuse investigation and reporting
- ☐ Missing item (both resident and facility property) investigations
- ☐ Policy and procedure revision and development
- ☐ Regulatory compliance

The quality assurance program will adhere to and comply with all applicable governmental regulations and directives.

PROCEDURE

The quality assurance program will be facilitated by a facility Quality Assurance Coordinator. The program will consist of three separate and distinct sub groups: Direct Care-Sub Committee, Indirect Care Sub-

Committee, Administrative Sub-Committee. These sub-committees in turn are supervised by the QA Committee. The role of the sub-committee is to act in a research and advisory capacity to the QA Committee by assessing quality issues and presenting alternatives, action plans, and recommendations to the quarterly QA Committee.

Each QA Sub-Group will meet on a monthly basis. The minutes of each group will be reported to the QA Committee during its quarterly meeting. The minutes will include the results of any studies, actions, or problems presented or discussed in the sub-comittees. All actions resultant of any QA sub-committee recommendation will not be initiated until approval is given by the QA committee members. Approval is defined by the receiving of affirmation during a quarterly QA Committee meeting or directly from the Quarterly QA Committee members when neccessary.

Access to the QA program will be made verbally or in writing to any active member of any of the QA committee or any Sub-commitee. This communication will then be referred to the appropriate sub-commitee.

Temporary and/or issue specific committees will be formed as needed with specific parameters as to membership, topic, meeting frequency and duration of service by the QA Committee.

The Quality Assurance program is explained annually to every employee via the use of in-services, orientations or other communications. Residents and families are educated on this program through Resident Council and as part of their admission orientation to the facility.

The quality assurance program will adhere to and comply with all applicable governmental regulations and directives.

Standing Membership of the Quality Assurance Committees

QA Committee (Quarterly)

Administrator
D.O.N
Medical Director
PAR
Environmental Services Supervisor
Maintenance Director
Resident Council Rep. (staff)
Indirect Care Sub-Committee Chairperson
Administrative Sub-Committee Chairperson
Quality of Life Sub-Committee Chairperson

Direct Care Sub-Committee (Monthly)

D.O.N (Chairperson)
(2) Staff Nurses
(2) CNAs
Activity Director
Social Services Director
Therapy Director
Dietary (clinical issues only)
Medical Supply

Indirect Care Sub-Committee (Monthly)

Env. Services Supervisor
Maintenance Director
Food Service Manager
(1) Laundry Aide
(1) Housekeeper
(1) Dietary Aide

Administrative Sub-Committee (Monthly)

Patient Accounts Rep.
Medical Supply
Human Resources
Marketing
(1) Office Staff
Medical Records
Admissions

Quality of Life (Monthly)
Administrator (Chairperson)
Activity Director
Social Services Director
(1) Activity Staff
(1) Dietary Aide
(1) Housekeeper
Resident Council Rep. (staff)
Admissions

Safety Committee (Monthly)
HR (Chairperson)
Maintenance Director
Env. Services Supervisor
Food Service Manager
(1) Laundry Aide
(1) Housekeeper
(1) Dietary Aide

Quality Assurance Tools

Quality Indicator Forms, which are indicative of potential quality problems, are discussed within the appropriate sub-group. These indicators are then reviewed within a specified time period to ascertain if the problem was truly corrected or if further measures need to be implemented. These forms are to be kept on file for reference.

Departmental Audits are to be completed as selected by staff members. The purpose of these audits is two-fold. Primarily they are used as a reference sheet to illuminate quality issues within specific areas. In addition, the long term use of these forms is to provide a benchmark that denotes the superior quality standards and provide data for the long range tracking of quality within the facility.

Incident Reports, which are part of the QA process, are records of actual incidents (some of which may illuminate potential quality problems), and discussed as appropriate within the appropriate sub-committee. These reports are reviewed and analyzed to ascertain the severity and scope of the incident and if the incident is an isolated indicator or an indicator of potential organizationally systemic problems which may precipitate the need for educational, procedural, or mechanical change. These forms are to be kept on file for reference and analysis. Examples of applicable incidents include (but are not limited to):

- Falls
- Med errors
- Resident abuse incidents and allegations
- Unusual occurrences
- Missing items
- Equipment malfunctions

MDS Generated QI/QM Reports are used to illuminate clinical concerns that may need addressed by the QA committees. These reports also provide a historical data pool as well as a peer oriented benchmark of quality.

Consultant/Software Reports are also part of the QA system as they are an excellent tool to evaluate specific quality issues.

All other QA documents, reports and or tools will be prominently marked as "QA" to denote their sensitivity and confidentiality as QA information.

TENNESSEE STATE VETERANS' HOMES

"Proudly serving those who served"

Tennessee State Veterans' Homes Board Strategic Plan 2011 - 2018

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Mission:

The Tennessee State Veterans' Homes provide skilled nursing care for veterans at three locations in Tennessee. The homes are located in Humboldt, Knoxville, and Murfreesboro and the Executive Office is located in Murfreesboro. The facilities are governed by the Tennessee State Veterans' Homes Board. All residents are cared for in such a manner and in such an environment as to promote enhancement of their quality of life without abridging the safety and rights of other residents. An interdisciplinary team approach to resident life is utilized to assure the quality of life. Residents and family members are involved in the care planning process, and resident participation is encouraged through a functioning resident council. Residents' rights are posted and enforced as delineated in current federal and state standards.

The central purpose and role of the Tennessee State Veterans' Home Board is to:

- Serve the long term care and rehabilitative needs of Tennessee's deserving veterans
- Provide quality of care and quality of life for our veterans
- Rehabilitate residents to the maximum attainable level of independent functioning by utilizing all necessary governmental and community services and therapies, and to provide a comfortable, safe, sanitary environment conducive to personal happiness
- Make available to residents, social and cultural activities of personal interest designed to foster feelings of dignity and self-respect
- Meet the individual needs of each resident to the greatest extent possible

Origin and Development of the Organization:

Public hearings by the Joint Select Committee on Veterans Affairs were held across the state in the fall of 1985 to identify the concerns of Tennessee's veterans. Long term health care was clearly a priority concern and the Tennessee Department of Veterans Affairs recommended that a system of State Veterans' Homes be established.

The governing body for the Tennessee State Veterans' Homes is the Tennessee State Veterans' Homes Board which has the responsibility for oversight of the day-to-day management and operations vested in the Executive Committee of the Board. Members of the Board are appointed by the Governor to serve a 3-year term with the exception of the Commissioner of the Tennessee Department of Veterans Affairs and the Commissioner of the Tennessee Department of Finance and Administration both of which are Ex Officio members. The Executive Committee exercises its authority for planning, implementation and operation of the Tennessee State Veterans' Homes through the Executive Director and his staff. Administrators at each home are responsible for the day-to-day operations of the homes.

The first home opened in Murfreesboro on June 10, 1991. Located on a seven acre lot, deeded to the Board by the U.S. Department of Veterans Affairs, adjacent to the Alvin C. York V.A. Medical Center, this is a 140 bed home offering intermediate and skilled levels of nursing care in a one-story building encompassing 69,278 square feet. Legislation passed by the General Assembly in 1993 provided for construction of a second home in Humboldt, Tennessee. Also a 140 bed home offering intermediate and skilled levels of nursing care, this one-story building encompassing some 74,870 square feet opened February 7, 1996. The third home in Knox County opened in December 2006. This 140 bed home, offers intermediate and skilled levels of nursing care in a spacious 73,065 square foot, one-story building.

Vision:

The end of FY 2018-2019 will show the Tennessee State Veterans' Homes in a leadership position for the State of Tennessee's long term care providers. It will be considered the "gold standard" for providers of long term care. It will have a veterans' home serving veterans in each part of the state.

From an organizational standpoint the TSVHB will be a mature organization with a history of stable and successful operations. The organization will have weathered unforeseen financial and operational storms due to the foundation of core policies, processes and practices which will be put in place beginning in 2011 and continuing through 2014. The TSVHB will have fully operating homes in Murfreesboro, Humboldt, Knoxville, Clarksville, Cleveland, Memphis and Kingsport. New homes will be under consideration for Davidson and Hamilton Counties. A possible second home in Shelby County may also be under consideration. The development of these homes will be dependent upon future market factors, care requirements and veteran migration.

Operations will show an expansion in Executive Office staff to support the demands of the growing organization. Staffing increases will involve additional accounting, compliance and clinical reimbursement staff. The staffing of the homes will remain much the same as defined in the FY 2013-2014 budget.

SWOT Analysis

Strengths

- Beneficial for veterans to be admitted here due to VA per diem and 70% rule
- Only provider of Veteran niche market
- Updated facilities
- Home-like environment
- Higher staffing ratios
- Television and cable provided in rooms
- Location – all homes located in a veteran rich area
- Visibility in the community
- Expanded activities program
- Veteran community support
- State affiliation
- Operational flexibility due to being a State sub-division
- Ability to expand territory
- Excellent reputation of homes
- High quality level of care
- Survey history

Opportunities

- Expansion of Medicare short term rehabilitation services
- Baby boomers (1946-1960's) are coming of age approaching a bigger market
- Community support/awareness improved but needs increased
- Financial position allows for development of new homes
- Large portion of the State is not served by TSVHB

Weaknesses

- High turnover of certified nursing assistant staff (inherent in industry)
- Planned homes draw operational focus and resources from current homes
- Management turnover
- Unknown as a short term rehabilitation facility in the local communities
- Complicated payment system
- Admission process time consuming which compromises referrals
- Lack of expanded job opportunities for personnel – no career ladder
- Inability to expand into other services such as home health care and outpatient therapy.

Threats

- Long Term Care Community Choices Act of 2008 continues to have a negative effect on census
- Anticipated TN Case Mix reimbursement conversion will cause operational adjustments and revenue changes
- Anticipated industry driven change in hospital discharges will increase the acuity level of the resident population requiring operational adjustments
- Integrated care continuum structured (CCRC) competitors lock veterans in as customers
- Changes in Medicare, Medicaid and VA reimbursement are uncontrollable by TSVHB
- Continued changes in Federal and State long term care regulations
- Unpredictable interpretation of regulations by State and Federal surveyors

Organizational Goals:

1. Maintain and Enhance Current Quality of Care Levels

The start of FYE 2012 shows confirmed ongoing high quality of care at the three existing homes. In FY 2010/2011 each of the homes performed at a high level as evidenced by State and Federal (VA) Surveys. The Murfreesboro home achieved a five star rating for quality by CMS. Both Humboldt and Knoxville achieved deficiency free TNDOH surveys. Murfreesboro had one minor citation.

Strategies:

a. Aggressively monitor quality of care via internal processes to illuminate weakness
b. Apply quality assurance principles to identify root causes and eliminate identified weaknesses
c. Enhance staffing and invest resources to increase quality as appropriate
d. Enhance staff training in clinical protocols
e. Develop pharmaceutical and therapeutic care formularies to minimize variation in care delivery
f. Integrate an electronic medical record system to increase productivity, reduce variation in documentation and enhance clinical oversight. There is a strong expectation that this will be a federal mandate for all long term care facilities within the next five years.
g. Integrate a computerized pharmaceutical dose delivery system to increase efficiencies of the medication pass process. This will also minimize waste.

Performance Measures:

a. Internal mock surveys
b. TNDOH surveys
c. Federal VA surveys
d. MDS generated Quality Indicator Reports
e. MDS Generated Quality Measure Reports

2. Continue to Refine Business Operations Into a More Efficient Model

TSVHB, like all organizations, can benefit from continuously evaluating business practices, work processes, and organizational dynamics. These evaluations will precipitate better efficiencies within TSVHB.

Strategies:

a. Review, revise and maintain consistent policies and procedures to assure quality
b. Involve staff at all levels in the revision and development of policies and procedures to ensure they support best practice outcomes and have realistic application
c. Perform audits and reviews to set benchmarks for performance indicators utilizing internal staff and external entities

Performance Measure:

a. Annual Policy and Procedure reviews

3. Maintain and Enhance Current Financial Position

The close of the third quarter of FYE 2011 shows a net profit of $1.6M. The cash position is at $10.2M with $6.2M of this unrestricted. This exceeded budgeted expectations.

Strategies:

a. Increase efficiency to reduce costs b.
Identify areas of waste
c. Fully fund the reserve accounts to prepare for unforeseen contingencies
d. Set competitive rates while utilizing the VA per diem to minimize direct costs to the veteran

e. Increase community involvement and exposure to improve each homes reputation
f. Develop marketing plans to generate resident referrals and admissions.

Performance Measures:

a. Financial reviews
b. Monthly Profit and Loss reports
c. Census tracking

4. Recruit and Retain Experienced and Skilled Staff.

The retention of current valued staff has a direct effect on financial and quality outcomes.

Strategies:

a. Establish and maintain Recruitment/Retention committees as a part of Quality Assurance
b. Revise interviewing and pre-hire practices to ensure that the best candidates are hired
c. Provide an effective orientation program with consistency throughout the organization with continuous monitoring for efficacy
d. Provide a positive reinforcement style of leadership
e. Recognize milestones; Anniversaries, Birthdays, etc.
f. Provide a trusting, caring environment: Show concern; acknowledge bereavement for loss of immediate family members through cards or flowers
g. Continue Employee of the Month and Employee of the Year programs
h. Conduct the disciplinary process in a fair and consistent manner
i. Update employee facilities including break rooms and locker rooms

Performance Measures:

a. Employee turnover tracking
b. Exit interviews

5. Renovate and Update Existing Homes.

The continuing operation of the existing homes will require renovation and updating to maintain their competitiveness in their local long term care markets. Additionally, these homes will strive to minimize the perception of a medical environment as an enhancement to resident quality of life. New technology and equipment will also be integrated into this goal, as will both visitor and staff capital needs. Renovation projects can be funded through VA construction grants as long as a 35% TSVHB investment is available. Small projects can be funded internally as capital expenses.

Strategies:

a. Improve the resident, visitor and staff experience including:
   i. Flexible dining program with dining room/kitchen renovations
   ii. Exterior gardens and other resident centered structures
   iii. Update resident rooms
   iv. Integrate resident lifting and transfer technologies to increase resident safety and reduce staff injuries
   v. Renovate resident activity areas
   vi. Implement resident security and safety technologies
   vii. Renovate Murfreesboro and Humboldt front entrances and lobbies
   viii. Increase parking at Murfreesboro and Knoxville homes

Performance Measures:

a. Weight loss tracking
b. Resident satisfaction interviews

6. Develop new homes to serve Tennessee's veterans outside of the existing market areas.

As of 2011 the State of Tennessee has a projected need for an additional 1311 Veterans' Home beds. Accounting for the existing homes, there is an unmet need for

891 beds. State Veterans' Homes are constructed with a combination of Local, State and Federal money. The Federal portion of the cost of construction, 65%, is provided through the U.S. Department of Veterans Affairs pursuant to U.S. Code Title 38, Chapter 81, Subchapter III.

Performance
Measures:

a. Funding, Construction and Operational Milestones

INSERT CONSTRUCTION GANTT HERE

Tennessee State Veterans' Homes Board
Pro Forma Cash Flows
LGIP Revenue Fund

	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	Total
Cash Flows (Income)from Operating Activities								
Cash Received from Patient Care	37,535,019	37,910,369	38,289,473	38,672,367	41,226,359	52,764,367	61,542,751	307,940,704
Cash Paid to Employees for Services	(18,969,525)	(19,538,611)	(20,124,769)	(20,728,512)	(23,641,665)	(30,736,552)	(35,681,144)	(169,420,779)
Cash paid for Non-employee Expenses	(14,553,227)	(15,035,362)	(15,481,042)	(15,939,839)	(17,857,778)	(20,854,613)	(22,495,997)	(122,217,859)
Others	-	-	-	-	-	-	-	-
Total Cash Flows from Operating Activities	4,012,266	3,336,396	2,683,661	2,004,016	(273,084)	1,173,202	3,365,609	16,302,066
Cash Flows from Non-Capital Financing Activities								
Operating/Equity Transfers In/Out	-	-	-	-	-	-	-	-
Transfer to Debt Service Fund	(581,472)	(570,218)	(563,212)	(551,485)	(543,457)	(540,190)	(752,954)	(4,102,988)
Transfer to Repair & Replacement Fund	(338,108)	(331,605)	(177,517)	-	-	(75,000)	(150,000)	(1,072,230)
Transfer to Technology Fund	(160,000)	(160,000)	(160,000)	-	-	-	(80,000)	(560,000)
Transfer to Operations Reserve Fund	(440,544)	(464,970)	(488,218)	(512,629)	(538,261)	(565,174)	(593,432)	(3,603,228)
Other-Interest on Commercial Paper	-	-	-	-	(147,500)	(147,500)	-	(295,000)
Total Cash Flows from Non-Capital Financing Activities	(1,520,125)	(1,526,793)	(1,388,947)	(1,064,114)	(1,229,217)	(1,327,864)	(1,576,386)	(9,633,446)
Cash Flows from Capital & Related Financing Activities								
Acquisition & Construction of Capital Assets	(242,500)	(254,625)	(267,356)	(280,724)	(294,760)	(309,498)	(324,973)	(1,974,437)
Other	-	-	-	-	-	-	-	-
Total Cash Flows from Capital & Related Financing Activities	(242,500)	(254,625)	(267,356)	(280,724)	(294,760)	(309,498)	(324,973)	(1,974,437)
Cash Inflows from Investing Activities								
Interest & Dividends on Investments	11,216	11,329	11,442	11,556	11,672	11,789	11,906	80,910
Interest & Penalties Received (Paid)	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-
Total Cash Inflows from Investing Activities	11,216	11,329	11,442	11,556	11,672	11,789	11,906	80,910
Net Increase/(Decrease) in Cash and Cash Equivalents	2,260,858	1,566,306	1,038,800	670,734	(1,785,390)	(452,372)	1,476,156	4,775,092
Beginning Cash Balance @ July 1,	4,584,253.12	6,845,111	8,411,417	9,450,217	10,120,951	8,335,561	7,883,189	55,630,700
Ending Cash Balance @ June 30,	6,845,111	8,411,417	9,450,217	10,120,951	8,335,561	7,883,189	9,359,346	60,405,792
Goal of $1,500,000 per facility	4,500,000	4,500,000	4,500,000	4,500,000	6,000,000	7,500,000	7,500,000	39,000,000
Difference-Over/(Under) Goal	2,345,111	3,911,417	4,950,217	5,620,951	2,335,561	383,189	1,859,346	21,405,792

Notes:

1 This cash flow projection was calculated anticipating Clarksville being operational June 2014 and Bradley County being operational June 2015. The first year of operational cost for both homes is included in the projection.

2 The benchmark is $1.5m per home in the LGIP revenue fund. It appears TSVHB will exceed this goal in FY2017.