

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

**CHAPTER 1200-08-25  
STANDARDS FOR ASSISTED-CARE LIVING FACILITIES**

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**1200-08-25-.01 PURPOSE.**

- (1) The purpose of assisted-care living services is to:
  - (a) Promote the availability of appropriate residential facilities for the elderly and adults with disabilities in the least restrictive and most homelike environment;
  - (b) Provide assisted-care living services to residents in facilities by meeting each individual's medical and other needs safely and effectively; and
  - (c) Enhance the individual's ability to age in place while promoting personal individuality, respect, independence, and privacy.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1998; effective February 8, 1999. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed January 24, 2006; effective April 9, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.

**1200-08-25-.02 DEFINITIONS.**

- (1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.
- (2) "Activities of Daily Living (ADL's)" means those activities which indicate an individual's independence in eating, dressing, personal hygiene, bathing, toileting, ambulating, and medication management.
- (3) "Administering Medication" means the direct application of a single dose of medication to the body of a resident by injection, inhalation, ingestion, topical application or by any other means and the placement of a single dose of medication into a container.

(Rule 1200-08-25-.02, continued)

- (4) "Administrator" means a natural person designated by the licensee to have the authority and responsibility to manage the ACLF and who is appropriately certified as an assisted-care living facility administrator or is currently licensed in Tennessee as a nursing home administrator as required by T.C.A. §§ 63-16-101, et seq.
- (5) "Adult" means a person 18 years of age or older.
- (6) "Ambulatory" means the resident's ability to bear weight, pivot and safely walk with the use of a cane, walker, or other mechanical supportive device with or without the minimal assistance of another person. The resident must be physically and mentally capable of self-preservation by evacuating in response to an emergency. A resident who requires a wheelchair must be capable of transferring to and propelling the wheelchair independently.
- (7) "Assisted-care living facility (ACLF)" means a building, establishment, complex or distinct part thereof that accepts primarily aged persons for domiciliary care and services.
- (8) "Assistance with Self-Administration of Medication" means assistance in reading labels, opening medication containers or packaging, reminding residents of their medication, or observing the resident while taking medication in accordance with the plan of care.
- (9) "Assisted-care living facility resident" or "resident" means primarily an aged person who requires domiciliary care, and who upon admission to the facility, if not ambulatory, is capable of self-transfer from the bed to a wheelchair or similar device and is capable of propelling such wheelchair or similar device independently. Such a resident may require one or more of the following services: room and board, assistance with non-medical activities of daily living, administration of typically self-administered medications, and medical services subject to the limitations of these rules.
- (10) "Assessment" means a procedure for determining the nature and extent of the problem(s) and needs of a resident or potential resident to ascertain if the ACLF can adequately address those problems, meet those needs, and secure information for the use in the development of the individual care plan.
- (11) "Cardiopulmonary resuscitation (CPR)" means the administering of any means or device to restore or support cardiopulmonary functions in a resident, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilators or respirators, defibrillation, the administration of drugs and/or chemical agents intended to restore cardiac and/or respiratory functions in a resident where cardiac or respiratory arrest has occurred or is believed to be imminent.
- (12) "Continuous nursing care" means round-the-clock observation, assessment, monitoring, supervision, or provision of nursing services that can only be performed by a licensed nurse.
- (13) "Distinct part" means a unit or part thereof that is organized and operated to give a distinct type of care within the larger organization which renders other types or levels of care. "Distinct" denotes both organizational and physical separateness. A distinct part of an ACLF must be physically identifiable and be operated distinguishably from the rest of the institution. It must consist of all the beds within that unit such as a separate building, floor, wing or ward. Several rooms at one end of a hall or one side of a corridor is acceptable as a distinct part of an ACLF.
- (14) "Do-Not-Resuscitate Order (DNR)" means a written order, other than a POST, not to resuscitate a patient in cardiac or respiratory arrest in accordance with accepted medical practices.

(Rule 1200-08-25-.02, continued)

- (15) "Emergency" means any situation or condition which presents an imminent danger of death or serious physical or mental harm to residents.
- (16) "Health care" means any care, treatment, service or procedure to maintain, diagnose, treat, or otherwise affect an individual's physical or mental condition, and includes medical care as defined in T.C.A. § 32-11-103(5).
- (17) "Health care decision" means an individual's consent, refusal of consent or withdrawal of consent to health care.
- (18) "Health care decision-maker" means that in the case of a resident who lacks capacity, the resident's health care decision-maker is one of the following: the resident's health care agent as specified in an advance directive, the resident's court-appointed guardian or conservator with health care decision-making authority, the resident's surrogate as determined pursuant T.C.A. § 68-11-1806, or the individual's designated physician pursuant to T.C.A. § 68-11-1802(a)(4).
- (19) "Infectious waste" means solid or liquid wastes which contain pathogens with sufficient virulence and quantity such that exposure could result in an infectious disease.
- (20) "Licensed health care professional" means:
  - (a) Any health care professional currently licensed by the State of Tennessee to practice within the scope of a regulated profession, such as a nurse practitioner, dietitian, dentist, occupational therapist, pharmacist, physical therapist, physician, physician assistant, psychologist, social worker, speech-language pathologist, and emergency service personnel; or
  - (b) A medication aide (as defined in Tennessee Code Annotated § 63-7-127).
- (21) "Licensee" means the person, association, partnership, corporation, company or public agency to which the license is issued.
- (22) "Life threatening or serious injury" means an injury requiring the resident to undergo significant diagnostic or treatment measures.
- (23) "Medical record" means documentation of medical histories, nursing and treatment records, care needs summaries, physician orders, and records of treatment and medication ordered and given which must be maintained by the ACLF, regardless of whether such services are rendered by ACLF staff or by arrangement with an outside source.
- (24) "Medically inappropriate treatment" means resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the resident or other medical or surgical treatments that cannot be expected to achieve the expressed goals of the informed resident.
- (25) "Medication Aide" means an individual who administers medications, as set forth in Tennessee Code Annotated § 63-7-127, under the general supervision of a licensed nurse pursuant to this section.
- (26) "Misappropriation of patient/resident property" means the deliberate misplacement, exploitation or wrongful, temporary or permanent use of an individual's belongings or money without the individual's consent.
- (27) "Neglect" means the failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in

(Rule 1200-08-25-.02, continued)

accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of the living will, shall not be deemed “neglect” for purposes of these rules.

- (28) “NFPA” means the National Fire Protection Association.
- (29) “Person” means an individual, association, estate, trust, corporation, partnership, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (30) “Personal services” means those services rendered to residents who need supervision or assistance in activities of daily living. Personal services do not include nursing or medical care.
- (31) “Physician Assistant” means a person who has graduated from a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, has passed the Physician Assistant National Certifying Examination, and is currently licensed in Tennessee as a physician assistant under Title 63, Chapter 19.
- (32) “Physician Orders for Scope of Treatment” or “POST” means written orders that:
- (a) Are on a form approved by the Board for Licensing Health Care Facilities;
  - (b) Apply regardless of the treatment setting and that are signed as required herein by the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist; and
  - (c)
    1. Specify whether, in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should or should not be attempted;
    2. Specify other medical interventions that are to be provided or withheld; or
    3. Specify both 1 and 2.
- (33) “Power of Attorney for Health Care” means the legal designation of an agent to make health care decisions for the individual granting such power under T.C.A. Title 34, Chapter 6, Part 2.
- (34) “Primarily aged” means that a minimum of fifty-one percent (51%) of the population of the facility is at least sixty-two (62) years of age.
- (35) “Resident sleeping unit” means a single unit providing sleeping facilities for one or more persons. Resident sleeping units can also include permanent provisions for living, eating and sanitation.
- (36) “Responsible attendant” means the individual person designated by the licensee to provide personal services to the residents.
- (37) “Secured unit” means a distinct part of an ACLF where the residents are intentionally denied egress except as is necessary to comply with life safety requirements.
- (38) “Self-Administration of Medication” means the ability to administer medicine to oneself without assistance other than receiving help with reading labels or with physically opening the container or packaging, being reminded of one's medication, or being observed while taking medication in accordance with the plan of care.

(Rule 1200-08-25-.02, continued)

- (39) "Supervising health care provider" means the health care provider who has undertaken primary responsibility for an individual's health care.
- (40) "Surrogate" means an individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident pursuant to T.C.A. § 68-11-1806.
- (41) "Treating health care provider" means a health care provider directly or indirectly involved in providing health care to a resident at the time such care is needed by the resident.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, and 68-11-211. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Amendment filed February 23, 2007; effective May 9, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed January 3, 2012; effective April 2, 2012. Amendment filed March 27 2015; effective June 25, 2015. Amendments filed July 10, 2018; effective October 8, 2018.

### 1200-08-25-.03 LICENSING REQUIREMENTS.

- (1) An applicant for an ACLF license shall submit the following to the office of the Board for Licensing Health Care Facilities:
  - (a) A completed application on a form approved by the Board;
  - (b) Nonrefundable application fee;
  - (c) Demonstration of the ability to meet the financial obligations of the ACLF with a financial statement prepared by a certified public accountant;
  - (d) A copy of a local business license (if one is required by the locality);
  - (e) A copy of any and all documents demonstrating the legal status of the business organization that owns the ACLF. If the applicant is a corporation or a limited liability company the applicant must submit a certificate of good standing; and
  - (f) Any other documents or information requested by the Board.
- (2) Before a license is granted, the applicant shall submit to an inspection conducted by Department of Health inspectors to ensure compliance with all applicable laws and rules.
- (3) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an applicant has been denied a license or has had a license disciplined or has attempted to avoid the survey and review process.
- (4) ACLF licenses shall expire and become invalid annually on the anniversary date of their original issuance.
  - (a) In order to successfully renew a license, Department inspectors will periodically inspect each ACLF to determine its compliance with these rules and regulations. If the inspectors find deficiencies, the licensee shall submit an acceptable corrective action plan and shall remedy the deficiencies.
  - (b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars (\$100) per

(Rule 1200-08-25-.03, continued)

month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

- (c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:
    - 1. A completed application for licensure; and
    - 2. The license fee provided in rule 1200-08-25-.04(1).
  - (d) Upon reapplication, the licensee shall submit to an inspection of the ACLF by Department of Health inspectors.
- (5) The Board shall issue a license only for the licensee and the location designated on the license application. If an ACLF moves to a new location, it shall obtain a new license and submit to an inspection of the new building before admitting residents.
- (6) A separate license shall be required for each ACLF when more than one facility is operated under the same management or ownership.
- (7) Any admission in excess of the licensed bed capacity is prohibited.
- (8) Change of Ownership.
- (a) A change of ownership occurs whenever the ultimate legal authority for the responsibility of the ACLF's operation is transferred, including a change in the legal structure by which the ACLF is owned and operated, and/or whenever ownership of the preceding or succeeding entity changes.
  - (b) A licensee shall notify the Board's administrative office of a proposed change of ownership within at least thirty (30) days prior to its occurrence by submitting the following to the Board office:
    - 1. A completed change of ownership application on a form approved by the Board;
    - 2. Nonrefundable application fee;
    - 3. Demonstration of ability to meet the financial obligations of the ACLF with a financial statement prepared by a certified public accountant;
    - 4. A copy of a local business license (if one is required by the locality);
    - 5. A copy of any and all documents demonstrating the formation of the business organization that owns the ACLF;
    - 6. The bill of sale and/or closing documents indicating the transfer of operations of the business entity; and
    - 7. Any other documents or information requested by the Board.
  - (c) Transactions constituting a change of ownership include, but are not limited to, the following:
    - 1. Transfer of the ACLF's legal title;

(Rule 1200-08-25-.03, continued)

2. Lease of the ACLF's operations;
  3. Dissolution of any partnership that owns, or owns a controlling interest in, the ACLF;
  4. The removal, addition or substitution of a partner;
  5. Removal of the general partner or general partners, if the ACLF is owned by a limited partnership;
  6. Merger of an ACLF owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;
  7. The consolidation of a corporate ACLF owner with one or more corporations; or
  8. Transfers between levels of government.
- (d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:
1. Changes in the membership of a corporate board of directors or board of trustees;
  2. Merger of two (2) or more corporations where one of the originally-licensed corporations survives;
  3. Changes in the membership of a non-profit corporation;
  4. Transfers between departments of the same level of government;
  5. Corporate stock transfers or sales, even when a controlling interest.
  6. Sale/lease-back agreements if the lease involves the ACLF's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the same legal form as the former owner; or
  7. Management agreements if the owner continues to retain ultimate authority for the operation of the ACLF; however, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.
- (9) Certification of Administrator.
- (a) Each ACLF must have an administrator who shall be certified by the Board, unless the administrator is currently licensed in Tennessee as a nursing home administrator as required by T.C.A. §§ 63-16-101, et seq.
  - (b) An applicant for certification as an ACLF administrator shall submit the following to the Board office:
    1. A completed application on a form approved by the Board;
    2. Nonrefundable application fee;
    3. Proof that the applicant is at least twenty-one (21) years of age;

(Rule 1200-08-25-.03, continued)

4. Proof that the applicant is a high school graduate or the holder of a general equivalency diploma;
  5. Results of a criminal background check; and
  6. Proof that the applicant has not been convicted of a criminal offense involving the abuse or intentional neglect of an elderly or vulnerable individual.
- (c) Renewal of ACLF administrator certification.
1. Certification shall be renewed biennially on June 30.
  2. The initial biennial re-certification expiration date of ACLF administrator candidates who receive their first certification between the dates of January 1 and June 30 of any year will be extended to two (2) years plus the additional months remaining in the fiscal year.
  3. In order to renew certification, the ACLF administrator shall submit the following to the Board office: renewal application; fee established by rule 1200-08-25-.04; and proof of having obtained at least twenty-four (24) classroom hours of continuing education during the previous two (2) years.
  4. An ACLF administrator shall complete twenty-four (24) classroom hours of continuing education approved by the Board prior to attendance, including, but not limited to the following topics:
    - (i) State rules and regulations for ACLFs;
    - (ii) Health care management;
    - (iii) Nutrition and food service;
    - (iv) Financial management; and
    - (v) Healthy lifestyles.
  5. All educational courses sponsored by the National Association of Boards of Examiners for Nursing Home Administrators (NAB) and continuing education courses sponsored by State and/or national associations that focus on geriatric care are board approved.
  6. An ACLF administrator who allows an administrator certification to lapse and reapplies for new certification must submit written proof of attendance of at least twenty-four (24) classroom hours of continuing education courses, as described in Part 4 above, within six (6) months after submitting a new application.
- (10) The licensee shall immediately notify the Board's administrative office in the event of an absence or change of administrator due to serious illness, incapacity, death or resignation of its named administrator.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 4-5-219, 4-5-312, 4-5-316, 4-5-317, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-208, 68-11-209, 68-11-213, 68-11-216, and Chapter 846 of the Public Acts of 2008, § 1. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed March 1, 2007; effective May 15, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20,



(Rule 1200-08-25-.03, continued)

2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed December 16, 2013; effective March 16, 2014. Amendments filed July 10, 2018; effective October 8, 2018.

#### 1200-08-25-.04 FEES.

- (1) Each ACLF, except those operated by the United States of America or the State of Tennessee, making application for licensure under this chapter shall pay annually to the Board's administrative office, a fee based on the number of ACLF beds, as follows:
  - (a) Less than 25 beds \$1,040.00
  - (b) 25 to 49 beds, inclusive \$1,300.00
  - (c) 50 to 74 beds, inclusive \$1,560.00
  - (d) 75 to 99 beds, inclusive \$1,820.00
  - (e) 100 to 124 beds, inclusive \$2,080.00
  - (f) 125 to 149 beds, inclusive \$2,340.00
  - (g) 150 to 174 beds, inclusive \$2,600.00
  - (h) 175 to 199 beds, inclusive \$2,860.00

For ACLFs of two hundred (200) beds or more, the fee shall be two thousand eight hundred and sixty dollars (\$2,860.00) plus two hundred dollars (\$200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable.

- (2) Each ACLF administrator shall submit to the Board's administrative office an application fee of one hundred eighty dollars (\$180.00). The fee shall be submitted with the initial application or renewal application and is not refundable.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-3-511, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-216, 68-11-257, and 71-6-121. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1998; effective February 8, 1999. Amendment filed September 21, 2001; effective December 5, 2001. Amendment filed April 20, 2006; effective July 4, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Public necessity rule filed May 13, 2009; through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendments filed March 26, 2019; effective June 24, 2019.

#### 1200-08-25-.05 REGULATORY STANDARDS.

- (1) A Department of Health representative shall make an unannounced inspection of every ACLF holding a license granted by the Board for its compliance with applicable state law and regulations within fifteen (15) months following the date of its last inspection, and as necessary, to protect the public's health, safety and welfare. An ACLF must cooperate during Department of Health conducted inspections, including allowing entry at any hour and providing all required records.
- (2) Plan of Correction. When Department of Health inspectors find that an ACLF has committed a violation of this chapter, the Department of Health, as the Board's representative, will issue a statement of deficiencies to the ACLF. Within ten (10) days of receipt of the statement of deficiencies, the ACLF must return a plan of correction including the following:

(Rule 1200-08-25-.05, continued)

- (a) How the deficiency will be corrected;
  - (b) The date upon which each deficiency will be corrected;
  - (c) What measures or systemic changes will be put in place to ensure that the deficient practice does not recur; and
  - (d) How the corrective action will be monitored to ensure that the deficient practice does not recur.
- (3) Either failure to submit a plan of correction in a timely manner or a finding by the Department of Health that the plan of correction is unacceptable may subject the ACLF's license to disciplinary action.
- (4) Upon a finding by the Board that an ACLF has violated any provision of the Health Facilities and Resources Act, Part 2—Regulation of Health and Related Facilities (T.C.A. §§ 68-11-201, et seq.) or the rules promulgated pursuant thereto, action may be taken, upon proper notice to the licensee, to impose a civil penalty, deny, suspend, or revoke its license.
- (5) Civil Penalties. The Board may, in a lawful proceeding respecting licensing (as defined in the Uniform Administrative Procedures Act), in addition to or in lieu of other lawful disciplinary action, assess civil penalties for violations of statutes, rules or orders enforceable by the Board in accordance with the following schedule:

Violation	Penalty
T.C.A. § 68-11-201(4)(B) (Provision of Room and Board and Non-Medical Living Assistance Services)	\$0-\$1000
T.C.A. § 68-11-201(4)(C) (Provision of Medical and other Professional Services; Medicare Services; Oversight of Medical Services; Plan of Care & Assessment; Personal and Medical Records; and, Fire Safety)	\$0-\$1000
T.C.A. § 68-11-213(i)(2) (Admission or Retention of Inappropriately Placed Resident. Each resident shall constitute a separate violation.)	\$0-\$3000
T.C.A. § 68-11-213(i)(1) (Operating ACLF without Required License. Each day of operation shall constitute a separate violation.)	\$0-\$5000

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

- (a) Willfulness of the violation;
- (b) Repetitiveness of the violation;

(Rule 1200-08-25-.05, continued)

- (c) Magnitude of the risk of harm caused by the violation.
- (6) Each violation of any statute, rule or order enforceable by the Board shall constitute a separate and distinct offense and may render the ACLF committing the offense subject to a separate penalty for each violation.
- (7) A licensee may appeal any disciplinary action taken against it in accordance with the Uniform Administrative Procedures Act, Tennessee Code Annotated §§ 4-5-101, et seq.
- (8) Reconsideration and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-04-01-.18 regarding petitions for reconsiderations and stays in that case.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-213 (i), and 68-11-257. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1998; effective February 8, 1999. Amendment filed February 15, 2000; effective April 30, 2000. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed May 24, 2004; effective August 7, 2004. Amendment filed April 20, 2006; effective July 4, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.

#### **1200-08-25-.06 ADMINISTRATION.**

- (1) Each ACLF shall meet the following staffing and procedural standards:
  - (a) Staffing Requirements:
    - 1. The licensee must designate in writing a capable and responsible person to act on administrative matters and to exercise all the powers and responsibilities of the licensee as set forth in this chapter in the absence of the licensee.
    - 2. If the licensee is a natural person, the licensee shall be at least eighteen (18) years of age, of reputable and responsible character, able to comply with these rules, and must maintain financial resources and income sufficient to provide for the needs of the residents, including their room, board, and personal services.
    - 3. An ACLF shall have an identified responsible attendant who is alert and awake at all times and a sufficient number of employees to meet the residents' needs, including medical services as prescribed. The responsible attendant and direct care staff must be at least eighteen (18) years of age and capable of complying with statutes and rules governing ACLFs.
    - 4. An ACLF shall have a licensed nurse available as needed.
    - 5. An ACLF shall employ a qualified dietitian, full time, part-time, or on a consultant basis.
    - 6. An ACLF may not employ an individual listed on the Abuse Registry maintained by the Department of Health.
  - (b) Policies and Procedures:
    - 1. An ACLF shall have a written statement of policies and procedures outlining the facility's responsibilities to its residents, any obligation residents have to the facility, and methods by which residents may file grievances and complaints.

(Rule 1200-08-25-.06, continued)

2. An ACLF shall develop and implement an effective facility-wide performance improvement plan that addresses plans for improvement for self-identified deficiencies and documents the outcome of remedial action.
  3. An ACLF shall develop a written policy, plan or procedure concerning a subject and adhere to its provisions whenever required to do so by these rules. A licensee that violates its own policy established as required by these rules and regulations also violates the rules and regulations establishing the requirement.
  4. An ACLF shall develop a written policy and procedure governing smoking practices of residents.
    - (i) Residents of the facility are exempt from the smoking prohibition that otherwise applies to the ACLF.
    - (ii) Smoke from permissible smoking areas shall not infiltrate into areas where smoking is prohibited.
  5. An ACLF shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.
- (c) An ACLF shall keep a written up-to-date log of all residents that can be produced in the event of an emergency.
  - (d) An ACLF shall allow pets in the ACLF only when they are not a nuisance and do not pose a health hazard. Plans for pet management must be approved by the Department.
  - (e) No person associated with the licensee or ACLF shall act as a court-appointed guardian, trustee, or conservator for any resident of the ACLF or any of such resident's property or funds, except as provided by rule 1200-08-25-.14(1)(i).
  - (f) An ACLF shall not retaliate against or, in any manner, discriminate against any person because of a complaint made in good faith and without malice to the Board, the Department, the Adult Protective Services, or the Comptroller of the State Treasury. An ACLF shall neither retaliate nor discriminate, because any person lawfully provides information to these authorities, cooperates with them, or is subpoenaed to testify at a hearing involving them.
- (2) In the event a resident dies at an ACLF, a registered nurse may make the actual determination and pronouncement of death under the following circumstances:
    - (a) Death was anticipated and the attending physician has agreed in writing to sign the death certificate. Such agreement by the attending physician must be present and with the deceased at the place of death;
    - (b) The nurse is licensed by the Tennessee Board of Nursing; and
    - (c) The nurse is employed by the ACLF in which the deceased resided.
  - (3) In the event that resident, receiving services of a Medicare certified hospice program licensed by the state, dies at an ACLF, a registered nurse may make the actual determination and pronouncement of death under the following circumstances:
    - (a) The deceased was suffering from a terminal illness;

(Rule 1200-08-25-.06, continued)

- (b) Death was anticipated and the attending physician has agreed in writing to sign the death certificate. Such agreement by the attending physician must be present and with the deceased at the place of death;
  - (c) The nurse is licensed by the Tennessee Board of Nursing; and
  - (d) The nurse is employed by the hospice program from which the deceased had been receiving hospice services.
- (4) An ACLF shall post the following at the main public entrance:
- (a) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the Division of Adult Protective Services. The statement shall include the statewide toll-free number for the Division and the telephone number for the local district attorney's office. The posting shall be on a sign no smaller than eleven inches by seventeen inches. (This same information shall be provided to each resident in writing upon admission to any facility);
  - (b) A statement that any person, regardless of age, who may be the victim of domestic violence may call the nationwide domestic violence hotline for immediate assistance, with that number printed in boldface type, and posted on a sign no smaller than eight and one-half inches (8½") in width and eleven inches (11") in height;
  - (c) A statement regarding whether it has liability insurance, the identity of their primary insurance carrier, and if self-insured, the corporate entity responsible for payment of any claims. It shall be posted on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height; and
  - (d) "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted at every entrance.
  - (e) A statement that any person who has experienced a problem with a specific licensed ACLF may file a complaint with the Division of Health Care Facilities. The posting shall include the statewide toll-free telephone number for the Division's centralized complaint intake unit.
- (5) Infection Control
- (a) An ACLF shall ensure that neither a resident nor an employee of the ACLF with a reportable communicable disease shall reside or work in the ACLF unless the ACLF has a written protocol approved by the Board's administrative office.
  - (b) An Assisted-Care Living Facility shall have an annual influenza vaccination program which shall include at least:
    1. The offer of influenza vaccination to all staff and independent practitioners at no cost to the person or acceptance of documented evidence of vaccination from another vaccine source or facility. The Assisted-Care Living Facility will encourage all staff and independent practitioners to obtain an influenza vaccination;
    2. A signed declination statement on record from all who refuse the influenza vaccination for reasons other than medical contraindications (a sample form is available at <http://tennessee.gov/health/topic/hcf-provider>);

(Rule 1200-08-25-.06, continued)

3. Education of all employees about the following:
    - (i) Flu vaccination;
    - (ii) Non-vaccine control measures; and
    - (iii) The diagnosis, transmission, and potential impact of influenza;
  4. An annual evaluation of the influenza vaccination program and reasons for non-participation; and
  5. A statement that the requirements to complete vaccinations or declination statements shall be suspended by the administrator in the event of a vaccine shortage as declared by the Commissioner or the Commissioner's designee.
- (c) An ACLF and its employees shall adopt and utilize standard precautions in accordance with guidelines established by the Centers for Disease Control and Prevention (CDC) for preventing transmission of infections, HIV, and communicable diseases, including adherence to a hand hygiene program which shall include:
1. Use of alcohol-based hand rubs or use of non-antimicrobial or antimicrobial soap and water before and after each resident contact if hands are not visibly soiled;
  2. Use of gloves during each resident contact with blood or where other potentially infectious materials, mucous membranes, and non-intact skin could occur and gloves shall be changed before and after each resident contact;
  3. Use of either non-antimicrobial soap and water or antimicrobial soap and water for visibly soiled hands; and
  4. Health care worker education programs which may include:
    - (i) Types of resident care activities that can result in hand contamination;
    - (ii) Advantages and disadvantages of various methods used to clean hands;
    - (iii) Potential risks of health care workers' colonization or infection caused by organisms acquired from residents; and
    - (iv) Morbidity, mortality, and costs associated with health care associated infections.
- (d) An ACLF shall develop and implement a system for measuring improvements in adherence to the hand hygiene program and influenza vaccination program.
- (e) Mandatory Testing for COVID-19.
1. The requirements of this subparagraph apply to all assisted-care living facilities licensed under Title 68, Chapter 11.
  2. Assisted-care living facilities shall comply with all Department of Health infection and prevention directives concerning staff and resident testing, including making off-shift staff available at the facility for testing.

(Rule 1200-08-25-.06, continued)

3. "Staff" or "Staff member" for the purposes of this subparagraph shall mean an employee or any individual who contracts with the facility to provide resident care.
  4. Initial Statewide Testing:
    - (i) Each assisted-care living facility must complete an "intent to test" survey as provided for by the Department prior to June 1, 2020.
    - (ii) Each assisted-care living facility resident and staff member must be tested by June 30, 2020.
    - (iii) Initial statewide testing may be done at the State Public Health Lab (SPHL), commercial labs with whom the State has agreements or through commercial laboratories with whom the facility has agreements. The facility may use any commercial labs using a test with U.S. Food and Drug Administration (FDA) emergency use authorization and which will report results as required by law.
    - (iv) The Department shall assist any assisted-care living facility without nursing staff in securing the licensed personnel necessary to take resident and staff samples, but facility support will be required for administrative tasks.
    - (v) An assisted-care living facility may use a commercial lab without the prior consent of the Department.
    - (vi) Within one (1) day of the effective date of this rule, the Department shall publish a list of previously approved labs.
    - (vii) The Department will provide sufficient personal protective equipment for the initial statewide testing described in this subparagraph,
  5. Residents and staff have the right to refuse testing. Each facility shall document the staff or resident's refusal by having the individual sign documentation created by the facility indicating that they have refused testing.
  6. A violation of this subparagraph is considered to be a serious deficiency. For a violation of any part of this subparagraph, the Department may seek any remedy authorized by Tenn. Code Ann. §§ 68-11-207 and 68-11-213, including but not limited to, license revocation, license suspension, and the imposition of civil monetary penalties.
  7. It shall be a defense to any disciplinary action taken under this subparagraph that a facility is unable to identify a COVID-19 testing laboratory, or that total statewide testing capacity is insufficient to accommodate the anticipated number of tests required by these rules.
- (6) An ACLF shall ensure that no person will be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the provision of any care or service of the ACLF on the grounds of race, color, national origin, or handicap. An ACLF shall protect the civil rights of residents under the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.

**Authority:** T.C.A. §§ 4-5-202, 39-17-1804, 39-17-1805, 68-3-511, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-213, 68-11-254, 68-11-268, and 71-6-121. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed January 7, 2000; effective March

(Rule 1200-08-25-.06, continued)

22, 2000. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed March 27, 2015; effective June 25, 2015. Amendments filed July 18, 2016; effective October 16, 2016. Emergency rules filed May 29, 2020; effective through November 25, 2020.

**1200-08-25-.07 SERVICES PROVIDED.**

- (1) An ACLF may provide medical services as follows:
  - (a) Administer medications to residents that are typically self-administered as subject to limitations described within these rules and regulations.
  - (b) All other medical services prescribed by the physician that could be provided to a private citizen in the citizen's home, including, but not limited to:
    1. Part-time or intermittent nursing care;
    2. Various therapies;
    3. Podiatry care;
    4. Medical social services;
    5. Medical supplies;
    6. Durable medical equipment; and
    7. Hospice services.
  - (c) Intravenous medications may only be administered to:
    1. Existing residents who receive them on an intermittent basis; and
    2. Residents receiving hospice care.
- (2) Medical services in an ACLF shall be provided by:
  - (a) Appropriately licensed or qualified staff of an ACLF;
  - (b) Appropriately licensed or qualified contractors of an ACLF;
  - (c) A licensed home care organization;
  - (d) Another appropriately licensed entity; or
  - (e) Appropriately licensed staff of a nursing home.
- (3) Oversight of medical services in an ACLF shall be consistent with oversight provided in private residential settings as defined through rules and regulations promulgated by the applicable licensing boards and shall ensure quality of care to residents.
- (4) Medicare reimbursable services shall be provided to an ACLF resident by a certified Medicare provider.
- (5) Resident medication. An ACLF shall:



(Rule 1200-08-25-.07, continued)

- (a) Ensure that medication shall be self-administered in accordance with the resident's plan of care;
  - (b) Ensure that all drugs and biologicals shall be administered by a licensed or certified health care professional operating within the scope of the professional license or certification and according to the resident's plan of care.
  - (c) Ensure that during the course of administering medication, a medication aide shall not be assigned any other non-medication administration duties. However, a medication aide shall not be precluded from responding, as appropriate, to an emergency;
  - (d) Store all medications via a locked or closed container and/or room which includes, but is not limited to, some type of box, piece of furniture, an individual resident room, and/or a designated room within the facility which maintains resident medication out of the sight of other residents; and
  - (e) Ensure that facility staff shall not repackage medication and shall not administer medication from repackaging.
- (6) An ACLF shall dispose of medications as follows:
- (a) Upon discharge of a resident, unused prescription medication shall be released to the resident, the resident's family member, or the resident's legal representative, unless specifically prohibited by the attending physician.
  - (b) Upon death of a resident, unused prescription medication must be destroyed in the manner outlined, and by the individuals designated, in the facility's medication disposal policy, unless otherwise requested by the resident's family member or the resident's legal representative and accompanied by a written order by a physician. The ACLF's medication disposal policy shall be written in accordance with current FDA or current DEA medication disposal guidelines;
  - (c) The ACLF shall properly dispose of prescription medication administered by the facility in accordance with the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines.
  - (d) The ACLF may dispose of prescription medication that is self-administered by the resident according to the facility's medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines, or the facility may provide information to the resident's family member or the resident's legal representative regarding the proper method to dispose of the medication.
  - (e) If the resident is a hospice patient, hospice shall be responsible for disposing of the prescription medication upon the death of the resident.
  - (f) The ACLF's medication disposal policy shall be performed by a licensed or certified health care professional and either the facility's administrator, or a second licensed or certified health care professional.
  - (g) The ACLF's medication disposal policy shall also address the disposal of scheduled drugs, non-scheduled drugs, and devices that are misbranded, expired, deteriorated, not kept under proper conditions, and kept in containers with illegible or missing labels.
- (7) An ACLF shall provide personal services as follows:

(Rule 1200-08-25-.07, continued)

- (a) Each ACLF shall provide each resident with at least the following personal services:
1. Protective care;
  2. Safety when in the ACLF;
  3. Daily awareness of the individual's whereabouts;
  4. The ability and readiness to intervene if crises arise;
  5. Room and board; and
  6. Non-medical living assistance with activities of daily living.
- (b) Laundry services. An ACLF shall:
1. Provide arrangements for laundry of ACLF linens and residents' clothing;
  2. Provide appropriate separate storage areas for soiled linens and residents' clothing; and
  3. Maintain clean linens in sufficient quantity to provide for the needs of the residents. Linens shall be changed whenever necessary.
- (c) Dietary services.
1. An ACLF shall have organized dietary services that are directed and staffed by adequate qualified personnel. An ACLF may contract with an outside food management company if the company has a dietitian who serves the ACLF on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this section while providing for constant liaison with the ACLF for recommendations on dietetic policies affecting resident treatment.
  2. An ACLF shall have an employee who:
    - (i) Serves as director of the food and dietetic service;
    - (ii) Is responsible for the daily management of the dietary services and staff training; and
    - (iii) Is qualified by experience or training.
  3. An ACLF shall ensure that menus meet the needs of the residents as follows:
    - (i) The practitioner or practitioners, as qualified within the scope of practice, responsible for the care of the residents shall prescribe therapeutic diets as necessary.
    - (ii) An ACLF shall meet nutritional needs, in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the residents.
    - (iii) An ACLF shall have a current therapeutic diet manual approved by the dietitian readily available to all ACLF personnel.

(Rule 1200-08-25-.07, continued)

- (iv) Menus shall be planned one week in advance.
4. An ACLF shall:
- (i) Provide at least three (3) meals constituting an acceptable and/or prescribed diet per day. There shall be no more than fourteen (14) hours between the evening and morning meals. All food served to the residents shall be of good quality and variety, sufficient quantity, attractive and at safe temperatures. Prepared foods shall be kept hot (140°F or above) or cold (41°F or less) as appropriate. The food must be adapted to the habits, preferences and physical abilities of the residents. Additional nourishment and/or snacks shall be provided to residents with special dietary needs or upon request.
  - (ii) Provide sufficient food provision capabilities and dining space.
  - (iii) Maintain and properly store a forty-eight (48) hour food supply at all times.
  - (iv) Provide appropriate, properly-repaired equipment and utensils for cooking and serving food in sufficient quantity to serve all residents.
5. An ACLF shall maintain a clean and sanitary kitchen.
6. Employees shall wash and sanitize equipment, utensils and dishes after each use.
- (d) An ACLF shall provide a suitable and comfortable furnished area for activities and family visits. Furnishings shall include a calendar and a functioning television set, radio, and clock.
  - (e) An ACLF shall provide current newspapers, magazines or other reading materials.
  - (f) An ACLF shall have a telephone accessible to all residents to make and receive personal telephone calls twenty-four (24) hours per day.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-261. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1999; effective February 8, 1999. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed February 18, 2003; effective May 4, 2003. Repeal and new rule filed January 24, 2006; effective April 9, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed March 27, 2015; effective June 25, 2015. Amendments filed July 10, 2018; effective October 8, 2018.

#### **1200-08-25-.08 ADMISSIONS, DISCHARGES, AND TRANSFERS.**

- (1) An ACLF shall not admit or permit the continued stay of any ACLF resident who has any of the following conditions:
  - (a) Requires treatment for stage III or stage IV decubitus ulcers or with exfoliative dermatitis;
  - (b) Requires continuous nursing care;

(Rule 1200-08-25-.08, continued)

- (c) Has an active, infectious and reportable disease in a communicable state that requires contact isolation;
  - (d) Exhibits verbal or physical aggressive behavior which poses an imminent physical threat to self or others, based on behavior, not diagnosis;
  - (e) Requires physical or chemical restraints, not including psychotropic medications for a manageable mental disorder or condition; or
  - (f) Has needs that cannot be safely and effectively met in the ACLF.
- (2) An ACLF resident shall be discharged and transferred to another appropriate setting such as home, a hospital, or a nursing home when the resident, the resident's legal representative, ACLF administrator, or the resident's treating physician determine that the ACLF cannot safely and effectively meet the resident's needs, including medical services.
- (a) The Board may require that an ACLF resident be discharged or transferred to another level of care if it determines that the resident's needs, including medical services, cannot be safely and effectively met in the ACLF.
- (3) Except for the limitations set forth in (4)(a) and (4)(b) of this rule, an ACLF may admit and permit the continued stay of an individual meeting the level of care requirement for nursing facility services, if:
- (a) The resident's treating physician certifies in writing that the resident's needs, including medical services, can be safely and effectively met by care provided in the ACLF; and
  - (b) The ACLF can provide assurances that the resident can be timely evacuated in case of fire or emergency.
- (4) An ACLF shall not admit, but may permit the continued stay of residents who require:
- (a) The following treatments on an intermittent basis of up to three (3) twenty-one (21) day periods. The resident's treating physician must certify that treatment can be safely and effectively provided by the ACLF for the last two (2) twenty-one (21) day periods.
    - 1. Nasopharyngeal or tracheotomy aspiration;
    - 2. Nasogastric feedings;
    - 3. Gastrostomy feedings; or
    - 4. Intravenous therapy or intravenous feedings.
  - (b) The treatments described in parts (1)-(4) above can be provided on an on-going basis if:
    - 1. The resident is receiving hospice services;
    - 2. The resident does not qualify for nursing facility level care and the board grants a waiver; or
    - 3. The resident is able to care for the specified conditions without assistance of facility personnel or other appropriately licensed entity. Such a resident may be admitted or permitted to continue as a resident of the ACLF.

(Rule 1200-08-25-.08, continued)

- (5) An ACLF resident qualifying for hospice care shall be able to receive hospice care services and continue as a resident if the resident's treating physician certifies that such care can be appropriately provided in the ACLF.
  - (a) In the event that the resident is able to receive hospice services in an ACLF, the resident's hospice provider and the ACLF shall be jointly responsible for a plan of care that is prepared pursuant to current hospice guidelines promulgated by the Centers for Medicaid and Medicare and ensures both the safety and well-being of the resident's living environment and provision of the resident's health care needs.
  - (b) The hospice provider shall be available to assess, plan, monitor, direct and evaluate the resident's palliative care with the resident's treating physician and in cooperation with the ACLF.
- (6) An ACLF shall:
  - (a) Be able to identify at the time of admission and during continued stay those residents whose needs for services are consistent with these rules and regulations, and those residents who should be transferred to a higher level of care;
  - (b) Have a written admission agreement that includes a procedure for handling the transfer or discharge of residents and that does not violate the residents' rights under the law or these rules;
  - (c) Have an accurate written statement regarding fees and services which will be provided residents upon admission;
  - (d) Give a thirty (30) day notice to all residents before making any changes in fee schedules;
  - (e) Ensure that residents see a physician for acute illness or injury and are transferred in accordance with any physician's orders;
  - (f) Provide to each resident at the time of admission a copy of the resident's rights for the resident's review and signature;
  - (g) Have written policies and procedures to assist residents in the proper development, filing, modification and rescission of an advance directive, a living will, a do-not-resuscitate order, and the appointment of a durable power of attorney for health care;
  - (h) Prior to the admission of a resident or prior to the execution of a contract for the care of a resident (whichever occurs first), each ACLF shall disclose in writing to the resident or to the resident's legal representative, whether the ACLF has liability insurance and the identity of the primary insurance carrier. If the ACLF is self-insured, its statement shall reflect that fact and indicate the corporate entity responsible for payment of any claims;
  - (i) Document evidence of annual vaccination against influenza for each resident, in accordance with the recommendation of the Advisory Committee on Immunization Practices of the Centers for Disease Control most recent to the time of vaccine, unless such vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccination for all residents accepting the vaccine shall be completed by November 30 of each year or within ten (10) days of the vaccine becoming available. Residents admitted after this date during the flu season and up to February 1, shall as medically appropriate, receive influenza vaccination prior to or on admission unless refused by the resident; and

(Rule 1200-08-25-.08, continued)

- (j) Document evidence of vaccination against pneumococcal disease for all residents who are sixty-five (65) years of age or older, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control at the time of vaccination, unless such vaccination is medically contraindicated or the resident has refused offer of the vaccine. The facility shall provide or arrange the pneumococcal vaccination of residents who have not received this immunization prior to or on admission unless the resident refuses offer of the vaccine.
  - (k) Prior to the admission of a resident or prior to the execution of a contract for the care of a resident (whichever occurs first), each ACLF shall disclose in writing to the resident or to the resident's legal representative a copy of the medication disposal policy, which shall be written in accordance with current FDA or current DEA medication disposal guidelines.
- (7) An ACLF shall have documented plans and procedures to show evacuation of all residents.
- (8) An ACLF may not retain a resident who cannot evacuate within thirteen (13) minutes unless the ACLF complies with Chapter 19 of the 2006 edition of the NFPA Life Safety Code, and the Institutional Unrestrained Occupancy of the 2006 edition of the International Building Code.
- (9) An ACLF utilizing secured units shall provide survey staff with twelve (12) months of the following performance information specific to the secured unit and its residents at its annual survey:
- (a) Documentation that an interdisciplinary team consisting of at least a physician, a registered nurse, and a family member (or patient care advocate) has evaluated each secured resident prior to admittance to the unit;
  - (b) Ongoing and up-to-date documentation that each resident's interdisciplinary team has performed a quarterly review as to the appropriateness of placement in the secured unit;
  - (c) A current listing of the number of deaths and hospitalizations, with diagnoses, that have occurred on the unit;
  - (d) A current listing of all unusual incidents and/or complications on the unit;
  - (e) An up-to-date staffing pattern and staff ratios for the unit that is recorded on a daily basis. The staffing pattern must ensure that there is a minimum of one (1) attendant, awake, on duty, and physically located on the unit twenty-four (24) hours per day, seven (7) days per week, at all times;
  - (f) A formulated calendar of daily group activities scheduled, including a resident attendance record for the previous three (3) months;
  - (g) An up-to-date listing of any incidences of decubitus and/or nosocomial infections, including resident identifiers; and
  - (h) Documentation showing that 100% of the staff working on the unit receives annual in-service training which shall include, but not be limited to, the following subject areas:
    - 1. Basic facts about the causes, progression and management of Alzheimer's disease and related disorders;

(Rule 1200-08-25-.08, continued)

2. Dealing with dysfunctional behavior and catastrophic reactions in the residents;
3. Identifying and alleviating safety risks to the resident;
4. Providing assistance in the activities of daily living for the resident; and
5. Communicating with families and other persons interested in the resident.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-201(5), 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-263, and 68-11-266. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed January 7, 2000; effective March 22, 2000. Amendment filed February 18, 2003; effective May 4, 2003. Repeal and new rule filed January 24, 2006; effective April 9, 2006. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed March 27, 2015; effective June 25, 2015. Amendments filed July 10, 2018; effective October 8, 2018.

#### **1200-08-25-.09 BUILDING STANDARDS.**

- (1) An ACLF shall construct, arrange, and maintain the condition of the physical plant and the overall ACLF living facility environment in such a manner that the safety and well-being of residents are assured.
- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities (FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.
- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) The licensed contractor shall perform all new construction and renovations to assisted care living facilities, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in assisted care living facilities, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new ACLF shall be constructed, nor shall major alterations be made to an existing ACLF without prior approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new ACLF is licensed or before any alteration or expansion of a licensed ACLF can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.

(Rule 1200-08-25-.09, continued)

- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include:
  - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;
  - (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
  - (j) Code analysis.



(Rule 1200-08-25-.09, continued)

- (11) Structural drawings shall include:
  - (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include:
  - (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
  - (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
- (16) Sprinkler drawings shall include:
  - (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;

(Rule 1200-08-25-.09, continued)

- (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
  - (a) Before the ACLF is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
  - (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.
- (18) The licensed contractor shall ensure through the submission of plans and specifications that in each ACLF:
  - (a) A negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms;
  - (b) A minimum of eighty (80) square feet of bedroom space must be provided each resident. No bedroom shall have more than two (2) beds. Privacy screens or curtains must be provided and used when requested by the resident;
  - (c) Living room and dining areas capable of accommodating all residents shall be provided, with a minimum of fifteen (15) square feet per resident per dining area; and
  - (d) Each toilet, lavatory, bath or shower shall serve no more than six (6) persons. Grab bars and non-slip surfaces shall be installed at tubs and showers.
- (19) With the submission of plans the facility shall specify the evacuation capabilities of the residents as defined in the National Fire Protection Code (NFPA). This declaration will determine the design and construction requirements of the facility.
- (20) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer and the owner as well as the manager or other executive of the institution. The department may modify the distribution of such review at its discretion.
- (21) In the event submitted materials do not appear to satisfactorily comply with 1200-08-25-.09(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

(Rule 1200-08-25-.09, continued)

- (22) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (23) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-25-.09(20). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (24) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (25) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
  - (a) Fire alarms; and
  - (b) Generators (if applicable).
- (26) Each ACLF shall ensure that an emergency keyed lock box is installed next to each bank of functioning elevators located on the main level. Such lock boxes shall be permanently mounted seventy-two inches (72") from the floor to the center of the box, be operable by a universal key no matter where such box is located, and shall contain only fire service keys and drop keys to the appropriate elevators.

**Authority:** T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-261.  
**Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendments filed December 20, 2011; effective March 19, 2012. Amendment filed January 21, 2016; effective April 20, 2016.

#### **1200-08-25-.10 LIFE SAFETY.**

- (1) The department will consider any ACLF that complies with the required applicable building and fire safety regulations at the time the Board adopts new codes or regulations, so long as such compliance is maintained (either with or without waivers of specific provisions), to be in compliance with the requirements of the new codes or regulations.
- (2) An ACLF shall ensure fire protection for residents by doing at least the following:
  - (a) Eliminate fire hazards;
  - (b) Install necessary fire fighting equipment;
  - (c) Adopt a written fire control plan;
  - (d) Ensure that each resident sleeping unit shall have a door that opens directly to the outside or to a corridor which leads directly to an exit door and that is always capable of being unlocked by the resident;
  - (e) Ensure that louvers shall not be present in doors to residents' sleeping units;

(Rule 1200-08-25-.10, continued)

- (f) Keep corridors and exit doors clear of equipment, furniture and other obstacles at all times. Passage to exit doors leading to a safe area shall be clear at all times;
  - (g) Prohibit use of combustible finishes and furnishings;
  - (h) Prohibit open flame and portable space heaters;
  - (i) Ensure that upon entering the ACLF, the resident or his or her responsible party is asked if they wish to have a cooking appliance that is appropriate for their level of cognition. If the facility chooses to provide a requested cooking appliance, it shall be used in accordance with the facility's policies. If the resident or his or her responsible party wishes to provide their own cooking appliance, it shall meet the facility's policies and safety standards. The cooking appliances shall be designed so that they can be disconnected and removed for resident safety or if the resident chooses not to have cooking capability within his or her apartment. The cooking appliances shall have an automatic timer;
  - (j) Ensure that all heaters shall be guarded and spaced to prevent ignition of combustible material and accidental burns. The guard shall not have a surface temperature greater than 120°F;
  - (k) Allow use of fireplaces and/or fireplace inserts only if the ACLF ensures that they have guards or screens which are secured in place;
  - (l) Inspect and clean fireplaces and chimneys annually and maintain documentation that such inspection has occurred;
  - (m) Ensure that there are electrically-operated smoke detectors with battery back-up power operating at all times in, at least, resident sleeping units, day rooms, corridors, laundry room, and any other hazardous areas; and
  - (n) Provide and mount fire extinguishers and maintain travel distance between fire extinguishers, complying with NFPA 10, so they are accessible to all residents in the kitchen, laundries and at all exits.
- (3) An ACLF shall conduct fire drills in accordance with the following:
- (a) Fire drills shall be held for each ACLF work shift in each separate ACLF building at least quarterly;
  - (b) There shall be one (1) fire drill per quarter during sleeping hours;
  - (c) An ACLF shall prepare a written report documenting the evaluation of each drill that includes the action that is recommended or taken to correct any deficiencies found; and,
  - (d) An ACLF shall maintain records that document and evaluate these drills for at least three (3) years.
- (4) An ACLF shall take the following action should a fire occur:
- (a) An ACLF shall report all fires which result in a response by the local fire department to the department within seven (7) days of its occurrence.
  - (b) An ACLF's report to the department shall contain the following:

(Rule 1200-08-25-.10, continued)

1. Sufficient information to ascertain the nature and location of the fire;
  2. Sufficient information to ascertain the probable cause of the fire; and
  3. A list and description of any injuries to any person or persons as a result of the fire.
  4. An ACLF may omit the name(s) of resident(s) and parties involved in initial reports. Should the department later find the identities of such persons to be necessary to an investigation, the ACLF shall provide such information.
- (5) An ACLF shall take the following precautions regarding electrical equipment to ensure the safety of residents:
- (a) Provide lighted corridors at all times, to a minimum of one foot candle;
  - (b) Provide general and night lighting for each resident and equip night lighting with emergency power;
  - (c) Maintain all electrical equipment in good repair and safe operating condition;
  - (d) Ensure that electrical cords shall not run under rugs or carpets;
  - (e) Ensure that electrical systems shall not be overloaded;
  - (f) Ensure that power strips are equipped with circuit breakers; and
  - (g) Prohibit use of extension cords.
- (6) If an ACLF allows residents to smoke, it shall ensure the following:
- (a) Permit smoking and smoking materials only in designated areas under supervision;
  - (b) Provide ashtrays wherever smoking is permitted;
  - (c) Smoking in bed is prohibited;
  - (d) Written policies and procedures for smoking within the ACLF shall designate a room or rooms to be used exclusively for residents who smoke. The designated smoking room or rooms shall not be the dining room, the activity room, or an individual resident sleeping unit, and;
  - (e) Post no smoking signs in areas where oxygen is used or stored.
- (7) An ACLF shall not allow trash and other combustible waste to accumulate within and around the ACLF. It shall store trash in appropriate containers with tight-fitting lids. An ACLF shall furnish resident sleeping units with an UL approved trash container.
- (8) An ACLF shall ensure that:
- (a) The ACLF maintains all safety equipment in good repair and in a safe operating condition;
  - (b) The ACLF stores janitorial supplies away from the kitchen, food storage area, dining area or other resident accessible areas;

(Rule 1200-08-25-.10, continued)

- (c) The ACLF stores flammable liquids in approved containers and away from the facility living areas; and
  - (d) The ACLF cleans floor and dryer vents as frequently as needed to prevent accumulation of lint, soil and dirt.
- (9) An ACLF shall post emergency telephone numbers near a telephone accessible to the residents.
- (10) An ACLF shall maintain its physical environment in a safe, clean and sanitary manner by doing at least the following:
- (a) Prohibit any condition on the ACLF site conducive to the harboring or breeding of insects, rodents or other vermin;
  - (b) Properly identify chemical substances of a poisonous nature used to control or eliminate vermin and store such substances away from food or medications;
  - (c) Ensure that the building shall not become overcrowded with a combination of the ACLF's residents and other occupants;
  - (d) Ensure that each resident sleeping unit shall contain a chair, bed, mattress, springs, linens, chest of drawers and wardrobe or closet space, either provided by the ACLF or by the resident if the resident prefers. All furniture provided by the resident must meet NFPA standards;
  - (e) Maintain all residents' clothing in good repair and ensure that it is suitable for the use of elderly persons;
  - (f) Maintain the building and its heating, cooling, plumbing and electrical systems in good repair and in clean condition at all times; and
  - (g) Maintain temperatures in resident sleeping units and common areas at not less than 65°F and no more than 85°F.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, and 68-11-213. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed April 11, 2003; effective June 25, 2003. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendments filed July 10, 2018; effective October 8, 2018.

#### 1200-08-25-.11 INFECTIOUS AND HAZARDOUS WASTE.

- (1) An ACLF must develop, maintain and implement written policies and procedures for the definition and handling of its infectious waste. These policies and procedures must comply with the standards of this rule.
- (2) The following waste shall be considered to be infectious waste:
  - (a) Waste contaminated by residents who are isolated due to communicable disease, as provided in the U.S. Centers for Disease Control "Guidelines for Isolation Precautions in Hospitals";
  - (b) Cultures and stocks of infectious agents including specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from

(Rule 1200-08-25-.11, continued)

- research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;
- (c) Waste human blood and blood products such as serum, plasma, and other blood components;
  - (d) Pathological waste, such as tissues, organs, body parts, and body fluids that are removed during surgery and autopsy;
  - (e) All discarded sharps (e.g., hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) used in resident care or which have come into contact with infectious agents during use in medical, research, or industrial laboratories; and
  - (f) Other waste determined to be infectious by the ACLF in its written policy.
- (3) Infectious and hazardous waste must be segregated from other waste at the point of generation (i.e., the point at which the material becomes a waste) within the ACLF.
- (4) Waste must be packaged in a manner that will protect waste handlers and the public from possible injury and disease that may result from exposure to the waste. Such packaging must provide for containment of the waste from the point of generation up to the point of proper treatment or disposal. Packaging must be selected and utilized for the type of waste the package will contain, how the waste will be treated and disposed, and how it will be handled and transported, prior to treatment and disposal.
- (a) Contaminated sharps must be directly placed in leakproof, rigid, and puncture-resistant containers which must then be tightly sealed.
  - (b) Whether disposable or reusable, all containers, bags, and boxes used for containment and disposal of infectious waste must be conspicuously identified. Packages containing infectious waste which pose additional hazards (e.g., chemical, radiological) must also be conspicuously identified to clearly indicate those additional hazards.
  - (c) Reusable containers for infectious waste must be thoroughly sanitized each time they are emptied, unless the surfaces of the containers have been completely protected from contamination by disposable liners or other devices removed with the waste.
  - (d) Opaque packaging must be used for pathological waste.
- (5) After packaging, waste must be handled and transported by methods ensuring containment and preservation of the integrity of the packaging, including the use of secondary containment where necessary. Plastic bags of infectious waste must be transported by hand.
- (6) Waste must be stored in a manner which preserves the integrity of the packaging, inhibits rapid microbial growth and putrefaction, and minimizes the potential of exposure or access by unknowing persons.
- (a) Waste must be stored in a manner and location which affords protection from animals, precipitation, wind, and direct sunlight, does not present a safety hazard, does not provide a breeding place or food source for insects or rodents, and does not create a nuisance.
  - (b) Pathological waste must be promptly treated, disposed of, or placed into refrigerated storage.

(Rule 1200-08-25-.11, continued)

- (7) In the event of spills, ruptured packaging, or other incidents where there is a loss of containment of waste, the ACLF must ensure that proper actions are immediately taken to:
  - (a) Isolate the area from the public and all except essential personnel;
  - (b) To the extent practicable, repackage all spilled waste and contaminated debris in accordance with the requirements of paragraph 6 of this rule;
  - (c) Sanitize all contaminated equipment and surfaces according to written policies and procedures which specify how this will be done appropriately; and
  - (d) Complete an incident report and maintain a copy on file.
- (8) Except as provided otherwise in this rule a facility must treat or dispose of infectious waste by one or more of the methods specified in this paragraph.
  - (a) An ACLF may treat infectious waste in an on-site sterilization or disinfection device, or in an incinerator or a steam sterilizer, which has been designed, constructed, operated and maintained so that infectious waste treated in such a device is rendered non-infectious and is, if applicable, authorized for that purpose pursuant to current rules of the Department of Environment and Conservation. A valid permit or other written evidence of having complied with the Tennessee Air Pollution Control Regulations shall be available for review, if required. Each sterilizing or disinfection cycle must contain appropriate indicators to assure that conditions were met for proper sterilization or disinfection of materials included in the cycle, and appropriate records kept. Proper operation of such devices must be verified at least monthly, and records of the monthly verifications shall be available for review. Waste that contains toxic chemicals that would be volatilized by steam must not be treated in steam sterilizers. Infectious waste that has been rendered to carbonized or mineralized ash shall be deemed non-infectious. Unless otherwise hazardous and subject to the hazardous waste management requirements of the current rules of the Department of Environment and Conservation, such ash shall be disposable as a (non-hazardous) solid waste under current rules of the Department of Environment and Conservation.
  - (b) An ACLF may discharge liquid or semi-liquid infectious waste to the collection sewerage system of a wastewater treatment facility which is subject to a permit pursuant to T.C.A. §§ 69-3-101, et seq., provided that such discharge is in accordance with any applicable terms of that permit and/or any applicable municipal sewer use requirements.
  - (c) Any health care facility accepting waste from another state must promptly notify the Department of Environment and Conservation, county, and city public health agencies, and must strictly comply with all applicable local, state and federal regulations.
- (9) An ACLF may have waste transported off-site for storage, treatment, or disposal. Such arrangements must be detailed in a written contract, available for review. If such off-site location is located within Tennessee, the ACLF must ensure that it has all necessary State and local approvals, and such approvals shall be available for review. If the off-site location is within another state, the ACLF must notify in writing all public health agencies with jurisdiction that the location is being used for management of the ACLF's waste. Waste shipped off-site must be packaged in accordance with applicable federal and state requirements. Waste transported to a sanitary landfill in this state must meet the requirements of current rules of the Department of Environment and Conservation.
- (10) Human anatomical remains which are transferred to a mortician for cremation or burial shall be exempt from the requirements of this rule.



(Rule 1200-08-25-.11, continued)

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

**Authority:** T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.

#### **1200-08-25-.12 RESIDENT RECORDS.**

- (1) An ACLF shall develop and maintain an organized record for each resident and ensure that all entries shall be written legibly in ink, typed, or kept electronically, and signed, and dated.
- (2) Personal record. An ACLF shall ensure that the resident's personal record includes at a minimum the following:
- (a) Name, Social Security Number, veteran status and number, marital status, age, sex, any health insurance provider and number, including Medicare and/or Medicaid number, and photograph of the resident;
  - (b) Name, address and telephone number of next of kin, legal representative (if applicable), and any other person identified by the resident to contact on the resident's behalf;
  - (c) Name and address of the resident's preferred physician, hospital, pharmacist and nursing home, and any other instructions from the resident to be followed in case of emergency;
  - (d) Record of all monies and other valuables entrusted to the ACLF for safekeeping, with appropriate updates;
  - (e) Date of admission, transfer, discharge and any new forwarding address;
  - (f) A copy of the admission agreement that is signed and dated by the resident;
  - (g) A copy of any advance directives, DNR Order, Durable Power of Attorney, or living will, when applicable, and made available upon request; and
  - (h) A record that the resident has received a copy of the ACLF's resident's rights and procedures policy.
- (3) Medical record. An ACLF shall ensure that its employees develop and maintain a medical record for each resident who requires health care services at the ACLF regardless of whether such services are rendered by the ACLF or by arrangement with an outside source, which shall include at a minimum:
- (a) Medical history;
  - (b) Consultation by physicians or other authorized healthcare providers;
  - (c) Orders and recommendations for all medication, medical/and other care, services, procedures, and diet from physicians or other authorized healthcare providers, which

(Rule 1200-08-25-.12, continued)

shall be completed prior to, or at the time of admission, and subsequently, as warranted. Verbal orders received shall include the time of receipt of the order, description of the order, and identification of the individual receiving the order;

- (d) Care/services provided, including identification of providing party;
  - (e) Medications administered and procedures followed if an error is made;
  - (f) Special procedures and preventive measures performed;
  - (g) Notes, including, but not limited to, observation notes, progress notes, and nursing notes;
  - (h) Listing of current vaccinations,
  - (i) Time and circumstances of discharge or transfer, including condition at discharge or transfer, or death;
  - (j) Provisions of routine and emergency medical care, to include the name and telephone number of the resident's physician, plan for payment, and plan for securing medications;
  - (k) Special information, e.g., do-not resuscitate orders, allergies, etc.; and
  - (l) Copy of quarterly Alzheimer's review, if medically indicated.
- (4) An ACLF shall complete a written assessment of the resident to be conducted by a direct care staff member within a time-period determined by the ACLF, but no later than seventy-two (72) hours after admission.
- (5) Plan of care.
- (a) An ACLF shall develop a plan of care for each resident admitted to the ACLF with input and participation from the resident or the resident's legal representative, treating physician, or other licensed health care professionals or entity delivering patient services within five (5) days of admission. The plan of care shall be reviewed and/or revised as changes in resident needs occur, but not less than semi-annually by the above-appropriate individuals.
  - (b) The plan of care shall describe:
    - 1. The needs of the resident, including the activities of daily living and medical services for which the resident requires assistance, i.e., what assistance/care, how much, who will provide the assistance/care, how often, and when;
    - 2. Requirements and arrangements for visits by or to physicians or other authorized health providers;
    - 3. Advance care directive, healthcare power-of-attorney; as applicable;
    - 4. Recreational and social activities which are suitable, desirable, and important to the well-being of the resident; and
    - 5. Dietary needs.

(Rule 1200-08-25-.12, continued)

- (6) Personal information shall be confidential and shall not be disclosed, except to the resident, the department and others with written authorization from the resident. Records shall be retained for three (3) years after the resident has been transferred or discharged.
- (7) An ACLF shall retain legible copies of the following records and reports for thirty-six (36) months following their issuance. The reports shall be maintained in a single file, and shall be made available for inspection during normal business hours to any resident who requests to view them. Each resident and each person assuming any financial responsibility for a resident must be fully informed, before admission, of the existence of the reports in the ACLF and given the opportunity to inspect the file before entering into any monetary agreement with the ACLF.
  - (a) Local fire safety inspections.
  - (b) Local building code inspections, if any.
  - (c) Department licensure and fire safety inspections and surveys.
  - (d) Orders of the Commissioner or Board, if any.
  - (e) Maintenance records of all safety equipment.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, and 68-11-1801 through 68-11-1815. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed January 24, 2006; effective April 9, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.

#### 1200-08-25-.13 REPORTS.

- (1) The ACLF shall report all incidents of abuse, neglect, and misappropriation to the Department of Health in accordance with T.C.A. § 68-11-211.
- (2) The ACLF shall report the following incidents to the Department of Health in accordance with T.C.A. § 68-11-211.
  - (a) Strike by staff at the facility;
  - (b) External disasters impacting the facility;
  - (c) Disruption of any service vital to the continued safe operation of the ACLF or to the health and safety of its patients and personnel; and
  - (d) Fires at the ACLF that disrupt the provision of patient care services or cause harm to the patients or staff, or that are reported by the facility to any entity, including but not limited to a fire department charged with preventing fires.
- (3) An ACLF shall file the Joint Annual Report of Assisted Care Living Facilities with the department. The forms shall be furnished and mailed to each ACLF by the department each year and the forms must be completed and returned to the department as required.

**Authority:** T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-211. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009;

(Rule 1200-08-25-.13, continued)

*effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendments filed January 3, 2012; effective April 2, 2012.*

**1200-08-25-.14 RESIDENT RIGHTS.**

- (1) An ACLF shall ensure at least the following rights for each resident:
  - (a) To be afforded privacy in treatment and personal care;
  - (b) To be free from mental and physical abuse. Should this right be violated, the ACLF shall notify the department and the Tennessee Department of Human Services, Adult Protective Services at 1-888-277-8366;
  - (c) To refuse treatment. An ACLF must inform the resident of the consequences of that decision. The ACLF must report the resident's refusal and its reason to the resident's treating physician and it must document such in the resident's record;
  - (d) To have his or her file kept confidential and private. An ACLF shall obtain the resident's written consent prior to release of information except as otherwise authorized by law;
  - (e) To be fully informed of the Resident's Rights, of any policies and procedures governing resident conduct, of any services available in the ACLF, and of the schedule of all fees for any and all services;
  - (f) To participate in drawing up the terms of the admission agreement, including, but not limited to, providing for resident's preferences for physician care, hospitalization, nursing home care, acquisition of medication, emergency plans and funeral arrangements;
  - (g) To be given thirty (30) days written notice prior to transfer or discharge, except when any physician orders the transfer because the resident requires a higher level of care;
  - (h) To voice grievances and recommend changes in policies and services of the ACLF without restraint, interference, coercion, discrimination or reprisal. An ACLF shall inform the resident of procedures to voice grievances and for registering complaints confidentially;
  - (i) To manage his or her personal financial affairs, including the right to keep and spend his or her own money. If the resident requests assistance from the ACLF in managing his or her personal financial affairs, the request must be in writing and the resident may terminate it at any time. The ACLF must separate such monies from the ACLF's operating funds and all other deposits or expenditures, submit a written accounting to the resident at least quarterly, and immediately return the balance upon transfer or discharge. The ACLF shall maintain a current copy of this report in the resident's file;
  - (j) To be treated with consideration, respect and full recognition of his or her dignity and individuality;
  - (k) To be accorded privacy for sleeping and for storage space for personal belongings;
  - (l) To have free access to day rooms, dining and other group living or common areas at reasonable hours and to come and go from the ACLF, unless such access infringes upon the rights of other residents;

(Rule 1200-08-25-.14, continued)

- (m) To wear his or her own clothes, to keep and use his or her own toilet articles and personal possessions;
- (n) To send and receive unopened mail;
- (o) To associate and communicate privately with persons of his or her choice, including receiving visitors at reasonable hours;
- (p) To participate, or to refuse to participate, in community activities, including cultural, educational, religious, community service, vocational and recreational activities;
- (q) To not be required to perform services for the ACLF. The resident and licensee may mutually agree, in writing, that the resident may perform certain activities or services as part of the fee for his or her stay; and
- (r) To execute, modify, or rescind a Living Will, Do-Not-Resuscitate Order or advance directive.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.  
**Administrative History:** Original rule filed February 16, 2007; effective May 2, 2007. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.

#### **1200-08-25-.15 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING.**

- (1) Pursuant to this rule, each ACLF shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a resident who is incompetent or who lacks capacity, including but not limited to allowing the withholding of CPR measures from individual residents. An adult or emancipated minor may give an individual instruction. The instruction may be oral or written. The instruction may be limited to take effect only if a specified condition arises.
- (2) An adult or emancipated minor may execute an advance directive for health care. The advance directive may authorize an agent to make any health care decision the resident could have made while having capacity, or it may limit the power of the agent, and it may include individual instructions. An advance directive that makes no limitation on the agent's authority shall authorize the agent to make any health care decision the resident could have made while having capacity.
- (3) The advance directive shall be in writing, signed by the resident, and shall either be notarized or witnessed by two (2) witnesses. Both witnesses shall be competent adults, and neither of them may be the agent. At least one (1) of the witnesses shall be a person who is not related to the resident by blood, marriage, or adoption and would not be entitled to any portion of the resident's estate upon his or her death. The advance directive shall contain a clause that attests that the witnesses comply with the requirements of this paragraph.
- (4) Unless otherwise specified in an advance directive, the agent's authority becomes effective only upon a determination that the resident lacks capacity, and it ceases to be effective upon a determination that the resident has recovered capacity.
- (5) An ACLF may use the model advance directive form that meets the requirements of the Tennessee Health Care Decisions Act and has been developed and issued by the Board for Licensing Health Care Facilities.
- (6) The resident's designated physician shall make a determination that a resident either lacks or has recovered capacity. The designated physician shall also have authority to make a

(Rule 1200-08-25-.15, continued)

determination that another condition exists that affects an individual instruction or the authority of an agent. To make such determinations the resident's designated physician shall be authorized to consult with such other persons as the physician may deem appropriate.

- (7) An agent shall make a health care decision in accordance with the resident's individual instructions, if any, and other wishes to the extent known to the agent. Otherwise, the agent shall make the decision in accordance with the resident's best interest. In determining the resident's best interest, the agent shall consider the resident's personal values to the extent known.
- (8) An advance directive may include the individual's nomination of a court-appointed guardian.
- (9) An ACLF shall honor an advance directive that is executed outside of this state by a nonresident of this state at the time of execution if that advance directive is in compliance with the laws of Tennessee or the state of the resident's residence.
- (10) No health care provider or institution shall require the execution or revocation of an advance directive as a condition for being insured for, or receiving, health care.
- (11) Any living will, durable power of attorney for health care, or other instrument signed by the individual, complying with the terms of Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, shall be given effect and interpreted in accord with those respective acts. Any advance directive that does not evidence an intent to be given effect under those acts but that complies with these regulations may be treated as an advance directive under these regulations.
- (12) A resident having capacity may revoke the designation of an agent only by a signed writing or by personally informing the supervising health care provider.
- (13) A resident having capacity may revoke all or part of an advance directive, other than the designation of an agent, at any time and in any manner that communicates intent to revoke.
- (14) A decree of annulment, divorce, dissolution of marriage, or legal separation revokes a previous designation of a spouse as an agent unless otherwise specified in the decree or in an advance directive.
- (15) An advance directive that conflicts with a previously executed advance directive revokes the earlier directive to the extent of the conflict.
- (16) Surrogates.
  - (a) An adult or emancipated minor may designate any individual to act as surrogate by personally informing, either orally or in writing, the supervising health care provider.
  - (b) A surrogate may make a health care decision for a resident who is an adult or emancipated minor if and only if:
    1. The designated physician determines that the resident lacks capacity, and
    2. There is not an appointed agent or guardian; or
    3. The agent or guardian is not reasonably available.
  - (c) In the case of a resident who lacks capacity, the resident's current clinical record of the ACLF shall identify his or her surrogate.

(Rule 1200-08-25-.15, continued)

- (d) The resident's surrogate shall be an adult who has exhibited special care and concern for the resident, who is familiar with the resident's personal values, who is reasonably available, and who is willing to serve.
- (e) Consideration may be, but need not be, given in order of descending preference for service as a surrogate to:
  - 1. The resident's spouse, unless legally separated;
  - 2. The resident's adult child;
  - 3. The resident's parent;
  - 4. The resident's adult sibling;
  - 5. Any other adult relative of the resident; or
  - 6. Any other adult who satisfies the requirements of 1200-08-25-.15(16)(d).
- (f) No person who is the subject of a protective order or other court order that directs that person to avoid contact with the resident shall be eligible to serve as the resident's surrogate.
- (g) The following criteria shall be considered in the determination of the person best qualified to serve as the surrogate:
  - 1. Whether the proposed surrogate reasonably appears to be better able to make decisions either in accordance with the resident's known wishes or best interests;
  - 2. The proposed surrogate's regular contact with the resident prior to and during the incapacitating illness;
  - 3. The proposed surrogate's demonstrated care and concern;
  - 4. The proposed surrogate's availability to visit the resident during his or her illness; and
  - 5. The proposed surrogate's availability to engage in face-to-face contact with health care providers for the purpose of fully participating in the decision-making process.
- (h) If the resident lacks capacity and none of the individuals eligible to act as a surrogate under 1200-08-25-.15(16)(c) through 1200-08-25-.15(16)(g) is reasonably available, the designated physician may make health care decisions for the resident after the designated physician either:
  - 1. Consults with and obtains the recommendations of a facility's ethics mechanism or standing committee in the facility that evaluates health care issues; or
  - 2. Obtains concurrence from a second physician who is not directly involved in the resident's health care, does not serve in a capacity of decision-making, influence, or responsibility over the designated physician, and is not under the designated physician's decision-making, influence, or responsibility.

(Rule 1200-08-25-.15, continued)

- (i) In the event of a challenge, there shall be a rebuttable presumption that the selection of the surrogate was valid. Any person who challenges the selection shall have the burden of proving the invalidity of that selection.
  - (j) A surrogate shall make a health care decision in accordance with the resident's individual instructions, if any, and other wishes to the extent known to the surrogate. Otherwise, the surrogate shall make the decision in accordance with the surrogate's determination of the resident's best interest. In determining the resident's best interest, the surrogate shall consider the resident's personal values to the extent known.
  - (k) A surrogate who has not been designated by the resident may make all health care decisions for the resident that the resident could make on the resident's own behalf, except that artificial nutrition and hydration may be withheld or withdrawn for a resident upon a decision of the surrogate only when the designated physician and a second independent physician certify in the resident's current clinical records that the provision or continuation of artificial nutrition or hydration is merely prolonging the act of dying and the resident is highly unlikely to regain capacity to make medical decisions.
  - (l) Except as provided in 1200-08-25-.15(16)(m):
    - 1. A designated surrogate may not be one of the following:
      - (i) The treating health care provider;
      - (ii) An employee of the treating health care provider;
      - (iii) An operator of a health care institution; or
      - (iv) An employee of an operator of a health care institution; and
    - 2. A health care provider or employee of a health care provider may not act as a surrogate if the health care provider becomes the resident's treating health care provider.
  - (m) A designated surrogate may be an employee of the treating health care provider or an employee of an operator of a health care institution if:
    - 1. The employee so designated is a relative of the resident by blood, marriage, or adoption; and
    - 2. The other requirements of this section are satisfied.
  - (n) A health care provider may require an individual claiming the right to act as surrogate for a resident to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.
- (17) Guardian.
- (a) A guardian shall comply with the resident's individual instructions and may not revoke the resident's advance directive absent a court order to the contrary.
  - (b) Absent a court order to the contrary, a health care decision of an agent takes precedence over that of a guardian.



(Rule 1200-08-25-.15, continued)

- (c) A health care provider may require an individual claiming the right to act as guardian for a resident to provide written documentation stating facts and circumstances reasonably sufficient to establish the claimed authority.
- (18) A designated physician who makes or is informed of a determination that a resident lacks or has recovered capacity, or that another condition exists which affects an individual instruction or the authority of an agent, guardian, or surrogate, shall promptly record such a determination in the resident's current clinical record and communicate the determination to the resident, if possible, and to any person then authorized to make health care decisions for the resident.
- (19) Except as provided in 1200-08-25-.15(20) through 1200-08-25-.15(22), a health care provider or institution providing care to a resident shall:
- (a) Comply with an individual instruction of the resident and with a reasonable interpretation of that instruction made by a person then authorized to make health care decisions for the resident; and
  - (b) Comply with a health care decision for the resident made by a person then authorized to make health care decisions for the resident to the same extent as if the decision had been made by the resident while having capacity.
- (20) A health care provider may decline to comply with an individual instruction or health care decision for reasons of conscience.
- (21) A health care institution may decline to comply with an individual instruction or health care decision if the instruction or decision is:
- (a) Contrary to the institution's policy which is based on reasons of conscience, and
  - (b) The institution timely communicated the policy to the resident or to a person then authorized to make health care decisions for the resident.
- (22) A health care provider or institution may decline to comply with an individual instruction or health care decision that requires medically inappropriate health care or health care contrary to generally accepted health care standards applicable to the health care provider or institution.
- (23) A health care provider or institution that declines to comply with an individual instruction or health care decision pursuant to 1200-08-25-.15(20) through 1200-08-25-.15(22) shall:
- (a) Promptly inform the resident, if possible, and/or any other person then authorized to make health care decisions for the resident;
  - (b) Provide continuing care to the resident until he can be transferred to another health care provider or institution or it is determined that such a transfer is not possible;
  - (c) Immediately make all reasonable efforts to assist in the transfer of the resident to another health care provider or institution that is willing to comply with the instruction or decision unless the resident or person then authorized to make health care decisions for the resident refuses assistance; and
  - (d) If a transfer cannot be effected, the health care provider or institution shall not be compelled to comply.

(Rule 1200-08-25-.15, continued)

- (24) Unless otherwise specified in an advance directive, a person then authorized to make health care decisions for a resident has the same rights as the resident to request, receive, examine, copy, and consent to the disclosure of medical or any other health care information.
- (25) A health care provider or institution acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for:
  - (a) Complying with a health care decision of a person apparently having authority to make a health care decision for a resident, including a decision to withhold or withdraw health care;
  - (b) Declining to comply with a health care decision of a person based on a belief that the person then lacked authority; or
  - (c) Complying with an advance directive and assuming that the directive was valid when made and had not been revoked or terminated.
- (26) An individual acting as an agent or surrogate is not subject to civil or criminal liability or to discipline for unprofessional conduct for health care decisions made in good faith.
- (27) A person identifying a surrogate is not subject to civil or criminal liability or to discipline for unprofessional conduct if such identification is made in good faith.
- (28) A copy of a written advance directive, revocation of an advance directive, or designation or disqualification of a surrogate has the same effect as the original.
- (29) The withholding or withdrawal of medical care from a resident in accordance with the provisions of the Tennessee Health Care Decisions Act shall not, for any purpose, constitute a suicide, euthanasia, homicide, mercy killing, or assisted suicide.
- (30) Physician Orders for Scope of Treatment (POST)
  - (a) Physician Orders for Scope of Treatment (POST) may be issued by a physician for a patient with whom the physician has a bona fide physician-patient relationship, but only:
    - 1. With the informed consent of the patient;
    - 2. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon request of and with the consent of the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act; or
    - 3. If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order and the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act, is not reasonably available, if the physician determines that the provision of cardio pulmonary resuscitation would be contrary to accepted medical standards.
  - (b) A POST may be issued by a physician assistant, nurse practitioner or clinical nurse specialist for a patient with whom such physician assistant, nurse practitioner or clinical nurse specialist has a bona fide physician assistant-patient or nurse-patient relationship, but only if:

(Rule 1200-08-25-.15, continued)

1. No physician, who has a bona fide physician-patient relationship with the patient, is present and available for discussion with the patient (or if the patient is a minor or is otherwise incapable of making an informed decision, with the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act);
  2. Such authority to issue is contained in the physician assistant's, nurse practitioner's or clinical nurse specialist's protocols;
  3. Either:
    - (i) The patient is a resident of a nursing home licensed under Title 68 or an ICF/MR facility licensed under Title 33 and is in the process of being discharged from the nursing home or transferred to another facility at the time the POST is being issued; or
    - (ii) The patient is a hospital patient and is in the process of being discharged from the hospital or transferred to another facility at the time the POST is being issued; and
  4. Either:
    - (i) With the informed consent of the patient;
    - (ii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon request of and with the consent of the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act; or
    - (iii) If the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order and the agent, surrogate, or other person authorized to consent on the patient's behalf under the Tennessee Health Care Decisions Act, is not reasonably available and such authority to issue is contained in the physician assistant, nurse practitioner or clinical nurse specialist's protocols and the physician assistant or nurse determines that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards.
- (c) If the patient is an adult who is capable of making an informed decision, the patient's expression of the desire to be resuscitated in the event of cardiac or respiratory arrest shall revoke any contrary order in the POST. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke any contrary order in the POST. Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician or physician assistant or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.
- (d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, qualified emergency medical services personnel; and licensed health care practitioners in any facility, program, or organization operated or licensed by the Board for Licensing Health Care Facilities, the Department of Mental Health and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(Rule 1200-08-25-.15, continued)

- (e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.
- (f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of the POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.
- (g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.
- (h) Valid do not resuscitate orders or emergency medical services do not resuscitate orders issued before July 1, 2004, pursuant to then-current law, shall remain valid and shall be given effect as provided in these rules.

**Authority:** T.C.A. §§ 68-11-209, 68-11-224, and 68-11-1801, et seq. **Administrative History:** Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed March 27, 2015; effective June 25, 2015.

#### **1200-08-25-.16 DISASTER PREPAREDNESS.**

- (1) An ACLF shall have in effect and available for all supervisory personnel and staff written copies of the following disaster, refuge and/or evacuation plans readily available at all times:
  - (a) Fire Safety Procedures Plan shall include:
    - 1. Minor fires;
    - 2. Major fires;
    - 3. Fighting the fire;
    - 4. Evacuation procedures; and
    - 5. Staff functions.
  - (b) Tornado/Severe Weather Procedures Plan shall include:
    - 1. Staff duties; and
    - 2. Evacuation procedures.
  - (c) Bomb Threat Procedures Plan shall include:

(Rule 1200-08-25-.16, continued)

1. Staff duties;
  2. Search team, searching the premises;
  3. Notification of authorities;
  4. Location of suspicious objects; and,
  5. Evacuation procedures.
- (d) Flood Procedure Plan, if applicable, shall include:
1. Staff duties;
  2. Evacuation procedures; and
  3. Safety procedures following the flood.
- (e) Severe Cold Weather and Severe Hot Weather Procedure Plans shall include:
1. Staff duties;
  2. Equipment failures;
  3. Evacuation procedures; and
  4. Emergency food service.
- (f) Earthquake Disaster Procedures Plan shall include:
1. Staff duties;
  2. Evacuation procedures;
  3. Safety procedures; and
  4. Emergency services.
- (2) An ACLF shall comply with the following:
- (a) Maintain a detailed log with staff signatures designating training each employee receives regarding disaster preparedness.
  - (b) Train all employees annually as required in the plans listed above and keep each employee informed with respect to the employee's duties under the plans.
  - (c) Exercise each of the plans listed above annually.
- (3) An ACLF shall participate in the Tennessee Emergency Management Agency local/county emergency plan on an annual basis. Participation includes:
- (a) Filling out and submitting a questionnaire on a form to be provided by the Tennessee Emergency Management Agency; and
  - (b) Maintaining documentation of participation that shall be made available to survey staff as proof of participation.

(Rule 1200-08-25-.16, continued)

- (4) ACLFs which elect to have an emergency generator shall ensure that the generator is designed to meet the ACLF's HVAC and essential needs and shall have a minimum of twenty-four (24) hours of fuel designed to operate at its rated load. This requirement shall be coordinated with the Disaster Preparedness Plan or with the local resources.
  - (a) All generators shall be exercised for thirty (30) minutes each month under full load, including automatic and manual transfer of equipment.
  - (b) The emergency generator shall be operated at the existing connected load and not on dual power. The ACLF shall maintain a monthly log and have trained staff familiar with the generator's operation.

**Authority:** T.C.A. §§ 68-11-202 and 68-11-209. **Administrative History:** Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.

#### 1200-08-25-.17 APPENDIX I.

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

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(Rule 1200-08-25-.17, continued)

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")		Patient's Last Name	
This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, <u>first</u> follow these orders, then contact physician.		First Name/Middle Initial	
		Date of Birth	
<b>Section A</b> Check One Box Only	<b>CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse <u>and</u> is not breathing.</b> <input type="checkbox"/> <b>Resuscitate(CPR)</b> <input type="checkbox"/> <b>Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)</b> When not in cardiopulmonary arrest, follow orders in <b>B, C, and D.</b>		
<b>Section B</b> Check One Box Only	<b>MEDICAL INTERVENTIONS. Patient has pulse <u>and/or</u> is breathing.</b> <input type="checkbox"/> <b>Comfort Measures Only.</b> Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. <b>Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.</b> <input type="checkbox"/> <b>Limited Additional Interventions.</b> In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). <b>Transfer</b> to hospital if indicated. Generally avoid the intensive care unit. <b>Treatment Plan: basic medical treatments.</b> <input type="checkbox"/> <b>Full Treatment.</b> In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. <b>Transfer</b> to hospital and/or intensive care unit if indicated. <b>Treatment Plan: Full treatment including in the intensive care unit.</b> Other Instructions: _____		
<b>Section C</b> Check One	<b>ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids &amp; nutrition must be offered if feasible.</b> <input type="checkbox"/> No artificial nutrition by tube. <input type="checkbox"/> Defined trial period of artificial nutrition by tube. <input type="checkbox"/> Long-term artificial nutrition by tube. Other Instructions: _____		
<b>Section D</b> Must be Completed	<b>Discussed with:</b> <input type="checkbox"/> Patient/Resident <input type="checkbox"/> Health care agent <input type="checkbox"/> Court-appointed guardian <input type="checkbox"/> Health care surrogate <input type="checkbox"/> Parent of minor <input type="checkbox"/> Other: _____ (Specify)	<b>The Basis for These Orders Is:</b> (Must be completed) <input type="checkbox"/> Patient's preferences <input type="checkbox"/> Patient's best interest (patient lacks capacity or preferences unknown) <input type="checkbox"/> Medical indications <input type="checkbox"/> (Other) _____	
Physician/NP/CNS/PA Name (Print)		Physician/NP/CNS/PA Signature	Date
		MD/NP/CNS/PA Phone Number:	
NP/CNS/PA (Signature at Discharge)			
<b>Signature of Patient, Parent of Minor, or Guardian/Health Care Representative</b>			
Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.			
Name (print)		Signature	Relationship (write "self" if patient)

(Rule 1200-08-25-.17, continued)

Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

### Directions for Health Care Professionals

#### **Completing POST**

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

#### **Using POST**

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

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

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

#### **Reviewing POST**

This POST should be reviewed if:

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

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



(Rule 1200-08-25-.17, continued)

## (2) Advance Directive for Health Care Form

**ADVANCE DIRECTIVE FOR HEALTH CARE\***  
(Tennessee)**Instructions:** Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

**Part I Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: \_\_\_\_\_ Relation: \_\_\_\_\_ Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Mobile Phone: \_\_\_\_\_ Other Phone: \_\_\_\_\_

**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: \_\_\_\_\_ Relation: \_\_\_\_\_ Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Mobile Phone: \_\_\_\_\_ Other Phone: \_\_\_\_\_

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

**When Effective** (mark one):  I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself.  I do not give such permission (this form applies only when I no longer have capacity).

**Part 2 Indicate Your Wishes for Quality of Life:** By marking “yes” below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking “no” below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

<input type="checkbox"/>	<input type="checkbox"/>	<b>Permanent Unconscious Condition:</b> I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<b>Permanent Confusion:</b> I become unable to remember, understand, or make decisions. I do not recognize loved ones or cannot have a clear conversation with them.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<b>Dependent in all Activities of Daily Living:</b> I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<b>End-Stage Illnesses:</b> I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is needed most of the time and activities are limited due to the feeling of suffocation.
Yes	No	

**Indicate Your Wishes for Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked “no” above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking “yes” below, I have indicated treatment I want. By marking “no” below, I have indicated treatment I **do not want**.

(Rule 1200-08-25-.17, continued)

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

**Part 3** Other instructions, such as hospice care, burial arrangements, etc.: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(Attach additional pages if necessary)

**Part 4 Organ donation:** Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

- Any organ/tissue     My entire body     Only the following organs/tissues: \_\_\_\_\_  
 \_\_\_\_\_  
 No organ/tissue donation

**SIGNATURE**

**Part 5** Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Patient)

**Block A** Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

\_\_\_\_\_  
 Signature of witness number 1

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

\_\_\_\_\_  
 Signature of witness number 2

**Block B** You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE

(Rule 1200-08-25-.17, continued)

COUNTY OF \_\_\_\_\_

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

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

**WHAT TO DO WITH THIS ADVANCE DIRECTIVE:** (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

\* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.  
**Administrative History:** Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015. Amendments filed February 8, 2017; effective May 9, 2017.