

**AGENDA**

**BOARD FOR LICENSING HEALTH CARE FACILITIES**

**227 French Landing  
Heritage Place Metrocenter  
Iris Conference Room, Lobby  
Nashville, TN 37243**

**January 21, 2010  
10:30 a.m. & 1:00 p.m.**

- 1. CALL THE MEETING TO ORDER.**
- 2. DISCUSSION.**
  - A. Rulemaking Hearing: 1200-08 – Building Standards and Fire Safety Codes Edition – 10:30 a.m.**
  - B. Rulemaking Hearing: End Stage Renal Dialysis Clinics Regulations – 1200-08-32-.01 Definitions; 1200-08-32-.04 Administration; 1200-08-32-.06 Basic Services – 1:00 p.m.**
- 3. PUBLIC COMMENTS.**
- 4. ADJOURN.**

**MINUTES**  
**BOARD FOR LICENSING HEALTH CARE FACILITIES**  
**RULEMAKING HEARING**  
**January 21, 2010**

The Board for Licensing Health Care Facilities second rulemaking hearing regarding End Stage Renal Dialysis Clinic Rules was called to order by Ms. Ann R. Reed on January 21, 2010, commencing at 1:00 p.m. Ms. Reed announced previously that our Chairman and Chairman Pro Tem were not in attendance today and that the Board will need to designate a Chairman for the rulemaking hearing.

Motion was made by Ms. Taylor-Huff, seconded by Ms. Chadwell, to:

**APPOINT MR. LUKE GREGORY TO SERVE AS CHAIRMAN FOR THE  
SECOND RULEMAKING HEARING.**

Motion carried by voice vote.

Ms. Reed called the roll to establish a quorum.

Mr. Luke Gregory, Acting Chairman  
Ms. Elizabeth Chadwell  
Ms. Paula Collier  
Mr. Mike Hann  
Ms. Janice Hill  
Dr. Norman Jones  
Ms. Carissa Lynch  
Ms. Annette Marlar  
Mr. John Marshall  
Ms. Sara Snodgrass  
Ms. Dixie Taylor-Huff  
Mr. James Weatherington

Members not present:

Dr. Larry Arnold, Chairman  
Dr. Thomas Carr  
Mr. Alex Gaddy  
Mr. Robert Gordon, Chairman Pro Tem  
Dr. Jennifer Gordon-Maloney  
Dr. Jon Winter

Present and representing the Office of General Counsel:

Ms. Erin Begley

Also present:

Ms. Ann Rutherford Reed, Director, Board for Licensing  
Ms. Wanda Hines, Board Administrator

A quorum was established by roll call vote.

Ms. Begley began the rulemaking hearing and explained in detail the procedures regarding the rulemaking hearing. She summarizes the proposed rules to incorporate into the End Stage Renal Dialysis Clinic rules concerning home dialysis training and support services. Ms. Begley acknowledged no one signed up to give public comments but written comments were submitted on behalf of Davita. Mr. Scott White was present at the rulemaking hearing.

Ms. Begley read the proposed comments submitted by Davita. The proposed comments consist of the following:

The review of the proposed rules has identified a potential issue related to the requirements under Rule 1200-08-32-.06. These rules create new training requirements for renal dialysis clinics of their registered nurses to conduct training in several numerous subjects. These subjects include the implementation of a nutritionist care plan and methods used to achieve and maintain emotional and social well-being. Training at Davita is being done by licensed dietitians on nutrition and Certified Masters of Social Work provide training related to emotional and social well-being. While registered nurses are generally qualified to provide this training, Davita believes that licensed dietitians and certified master social workers are specifically qualified in these prospective areas through education, training and licensing. Therefore, in allowing renal dialysis clinics the continuity to utilize the services of licensed dietitians and certified master social workers to provide training related to nutrition and well-being they would like the Board to consider their request of the following changes:

- (1) On page 1, paragraph 2, subparagraph b, Training Requirements, Davita requested the change of the language to state “unless otherwise provided by this rule a renal dialysis clinic providing home dialysis training shall ensure will be conduct by a registered nurse...” The rule currently states “a renal dialysis clinic providing home dialysis training” so with the recommended language add the phrase, “unless otherwise provided by this rule.”
- (2) The second requested changes are under Training Requirement, (b)(2). The current language states, “implementation of a nutritional care plan.” Davita has requested that the Board consider changing the language to “implementation of a nutritional care plan provided however by a dietitian or a nutritionist who has a valid license in the state may provide training in lieu of a registered nurse”. Below that language is the language “methods used to achieve and maintain emotional and social well-being” Davita requested the Board to consider changing that language to “methods used to achieve and maintain emotional and social well-being provided however a certified master social worker or licensed clinical social worker holding a valid certificate of registration or license in this state may provide such training in lieu of a registered nurse.”

Ms. Begley clarified for the Board the purpose of the home dialysis training language in the ESRD rules. Several questions were raised by the Board regarding this language with legal responding.

Motion was made by Ms. Chadwell, seconded by Ms. Hill, to:

**APPROVE THE FIRST SET OF RECOMMENDED LANGUAGE UNDER SECTION B, TRAINING REQUIREMENTS TO ADD THE PHRASE “UNLESS OTHERWISE PROVIDED BY THIS RULE. A RENAL DIALYSIS CLINIC PROVIDING HOME DIALYSIS TRAINING SHALL ENSURE THAT THE TRAINING WILL BE CONDUCTED BY A REGISTERED NURSE HAVING AT LEAST 12 MONTHS OF EXPERIENCE OF PROVIDING NURSING CARE AND AT LEAST 3 MONTHS EXPERIENCE WORKING IN HEMODIALYSIS OR PERITONEAL DIALYSIS AND THAT THE REGISTERED NURSE OR OTHER SPECIFIC PROFESSIONALS SHALL TEACH THE FOLLOWING.”**

**APPROVE THE SECOND SET OF RECOMMENDED LANGUAGE WHICH IS IMPLEMENTATION OF A NUTRITIONAL PLAN PROVIDED HOWEVER A DIETITIAN OR NUTRITIONIST HOLDING A VALID LICENSE IN THIS STATE MAY PROVIDE SUCH TRAINING IN LIEU OF A REGISTERED NURSE’ AND**

**METHODS USE TO ACHIEVE AND MAINTAIN EMOTIONAL AND SOCIAL WELL-BEING PROVIDED HOWEVER A CERTIFIED MASTER SOCIAL WORKER OR LICENSED CLINICAL SOCIAL WORKER HOLDING A VALID CERTIFICATE OF REGISTRATION WHERE LICENSED IN THIS STATE, MAY PROVIDE SUCH TRAINING IN LIEU OF A REGISTERED NURSE.**

Motion carried by voice vote.

Motion was made by Ms. Taylor-Huff, seconded by Ms. Chadwell, to:

**ACCEPT ALL OF THE CHANGES AS AMENDED REGARDING THE END STAGE RENAL DIALYSIS CLINIC RULES CONCERNING HOME DIALYSIS TRAINING AND SUPPORT SERVICES THAT WERE PRESENTED TODAY TO THE BOARD AND TO ADOPT THESE RULES.**

Motion carried by roll call vote.

With all business concluded, a motion was made by Dr. Jones, seconded by Ms. Snodgrass, to adjourn the meeting.

Respectfully submitted,

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Robert Gordon  
Board Secretary

RG/weh

**MINUTES**  
**BOARD FOR LICENSING HEALTH CARE FACILITIES**  
**RULEMAKING HEARING**  
**January 21, 2010**

The Board for Licensing Health Care Facilities Rulemaking Hearing was called to order by Ms. Ann R. Reed on January 21, 2010, commencing at 10:30 a.m. Ms. Reed announced that our Chairman and Chairman Pro Tem were not in attendance today and that the Board would need to designate a Chairman for the rulemaking hearing.

Motion was made by Ms. Taylor-Huff, seconded by Dr. Jones, to:

**APPOINT MR. LUKE GREGORY TO SERVE AS CHAIRMAN FOR THIS  
RULEMAKING HEARING.**

Motion carried by voice vote.

Ms. Reed called the roll to establish a quorum.

Mr. Luke Gregory, Acting Chairman  
Ms. Elizabeth Chadwell  
Ms. Paula Collier  
Mr. Mike Hann  
Ms. Janice Hill  
Dr. Norman Jones  
Ms. Carissa Lynch  
Ms. Annette Marlar  
Mr. John Marshall  
Ms. Sara Snodgrass  
Ms. Dixie Taylor-Huff  
Mr. James Weatherington

Members not present:

Dr. Larry Arnold, Chairman  
Dr. Thomas Carr  
Mr. Alex Gaddy  
Mr. Robert Gordon, Chairman Pro Tem  
Dr. Jennifer Gordon-Maloney  
Dr. Jon Winter

Present and representing the Office of General Counsel:

Ms. Erin Begley

Also present:

Ms. Ann Rutherford Reed, Director, Board for Licensing  
Ms. Wanda Hines, Board Administrator  
Mr. Bill Harmon, Director of Facilities Construction Specialist  
Mr. Steve Baker, Facilities Construction Specialist 3

Ms. Shirley Jones, Regional Administrator, West TN Regional Office  
Ms. Faye Vance, Regional Administrator, East TN Regional Office

A quorum was established by roll call vote.

Ms. Begley began the rulemaking hearing and explained in detail the procedures regarding the rulemaking hearing. She summarize the proposed rules which amended the current Building Standards by requiring all new facilities and existing facilities that are enlarged or substantially altered after July 1, 2006 to conform to the following codes: The 2006 edition of the International Building Code, the 2006 edition of the International Mechanical Code, the 2006 edition of the International Plumbing Code, the 2006 edition of the International Fuel and Gas Code, the 2006 edition of the National Fire Protection Code NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code, the 2006 edition for Design and Construction of Health Care Facilities, the 2005 edition of the National Electric Code, the 2005 edition of the U.S. Public Health Service Food Code, the 2004 Americans with Disability Act and the 1999 edition of the North Carolina Handicapped Accessibility Codes of 2004 Amendments. Ms. Begley acknowledged no one signed up to give public comments but Davita had submitted written comments. Mr. Scott White representative from Davita was present at the rulemaking hearing.

Ms. Begley read the proposed comments submitted by Davita. The proposed comments consist of the following:

- (1) to amend the use of the acronym ESRD definition End Stage Renal Disease to the term Renal Dialysis Clinic;
- (2) relates to Rule 1200-08-32-.08(2) which sets forth the requirement or elements for the mechanical drawings that must be submitted to the Department because not all projects will require all of the elements contained in this requirement such as a medical gas system or a septic tank. The suggested initial language read as follows: "Mechanical drawings shall include where applicable";
- (3) Rule 1200-08-32-.08(13)(c)(2) contains the language the paging system as one of the required elements of the electrical drawings that must be submitted to the department. This term is somewhat vague as it is not clear what a paging system includes. For instance, the telephone system may include a paging function but mechanical drawings would not typically be made or required to be submitted of a phone system. This comment is seeking clarification on what is considered a paging system;
- (4) Rule 1200-08-32-.08(13)(f) contains a typographical error. The term "laboratory" should be replaced with the term "lavatory";
- (5) Rule 1200-08-32-.08(16) as set forth require that sprinkler drawings must be submitted to the department. Not all projects will require sprinkler drawings. It is suggested that the initial language of this section read as follows: "Sprinkler drawings shall include where applicable";

(6) Rule 1200-08-32-.08(18) requires a submission of plans to the Department by the licensed contractor in accordance with industry practice. Licensed architects and engineers should also be allowed to make these required submissions and;

(7) Rule 1200-08-32-.08(23) requires the submission of final approved plans to the Department by the licensed contractor in an electronic format in accordance with industry practice. Licensed architects and engineers should also be allowed to make these required submissions.

On the first proposed amendment listed as #1 above, several questions regarding the definition of ESRD were discussed. Ms. Shirley Jones, Regional Administrator addressed the Board to explain that CMS refers to these facilities as Renal Clinics End Stage Renal Dialysis and our rules look at those standards as End Stage Renal Dialysis Clinics.

Mr. Scott White of the Southern Strategy Group representing Davita spoke to the Board. He indicated the Board's rules define both ESRD and Renal Dialysis Clinic. Mr. Scott went on to indicate that the two terms were not used per their deficiencies in the body of the rules.

Motion was made by Ms. Snodgrass, seconded by Dr. Jones, to:

**RELOOK AT THE RULES IN THOSE AREAS WHERE THE ACRONYM ESRD IS USED AND REPLACE WITH PROPER TERMINOLOGY WHERE NEEDED.**

Motion carried by voice vote.

The next proposed change is the misspelling of lavatory. This was a typographical error change.

Motion was made by Ms. Snodgrass, seconded by Ms. Taylor-Huff, to:

**CHANGE THE TYPOGRAPHICAL ERROR FROM LABORATORY TO LAVATORY.**

Motion carried by voice vote.

The next two (2) items listed as #6 and #7 above were regarding the General Contractor, Architect and Engineer and submission of plans. This refers to 1200-08-32-.08(18) and (23). Davita's suggestion was to add architects and engineers to the list of who can submit plans to Plans Review. This would take away the limitation that only the licensed contractor can submit the plans. Mr. Harmon, Director of Plans Review stated he has no objection in eliminating "licensed contractor" as the person to formally submit plans in 1200-08-32-.08(18). He stated Plans Review deals directly with the architect. The Architect and Engineers Board require that on the formal submission of plans there is an architect of record. Numerous questions and discussion occurred regarding the proposed comments among the Board Members and Department staff.

The first motion is concerning 1200-08-32-.08(18).

Motion was made by Ms. Snodgrass, seconded by Ms. Hill, to:

**REMOVE THE WORDS “LICENSED CONTRACTOR SHALL ENSURE THROUGH” AND REPLACE IT WITH “IT SHALL BE DEMONSTRATED THROUGH THE SUBMISSION OF PLANS SPECIFICATIONS”.**

Motion carried by voice vote.

The second motion was based on Rule 1200-08-32-.08(23).

Motion was made by Ms. Snodgrass, seconded by Mr. Gordon, to:

**REMOVE THE WORDS “LICENSED CONTRACTOR SHALL SUBMIT” AND LET IT READ THROUGH AS IT STATES “PRIOR TO INSPECTION OF THE CD ROM DISK AND TIV OR TIP FORMAT, ETC”.**

Motion carried by voice vote.

The next items listed as #2 and #5 are regarding mechanical drawing requirements sprinkler drawing requirements. The Chairman asked Bill Harmon, Director of Plans Review, for input. Mr. Harmon explained that lot of the projects they review. For example, some projects may not require any mechanical submission as well as some projects may not require sprinkler submission. Mr. Harmon specified Plans Review had no preference as to whether the language is there or not. If plans are required Plans Review ask for plans, if they're not required then Plans Review wouldn't require submission. Mr. Harmon felt there was not a need to change the language of the proposed rules. Mr. Scott representing Davita expressed that as long as it is on record of the rulemaking hearing that the position of the Department is “they only require what is applicable” the language isn't necessary.

The Chairman stated rather than having a vote on this; we can assume this proposed comment was resolved and withdrawn. Ms. Begley agreed with the proposed statement.

The final item is Rule 1200-08-32-.08(13)(c)(2) which utilizes language including words the paging system. This language is somewhat vague as it is not clear what is a paging system? The Chairman asked Bill Harmon, Director of Plans Review, to aide the Board in understanding what a paging system is. Mr. Harmon explained facilities may use a telephone paging system or a wireless system.

The rule is trying to ensure there is some type of paging system that Plans Review can review to ensure it is applicable. Ms. Snodgrass stated she understands Plans Review's dilemma because many facilities do paging through the phone and this would not be on a set of construction documents. She indicated this could be handled by simply placing a note on the construction plans. Ms. Marlar felt the language is pretty clear that it means if it is applicable this is what they have to do.

Ms. Begley stated Renal Dialysis Clinics do not normally utilize a paging system we could take that section out completely just for these clinics then in the other rules we can put the language where applicable or where required a paging system.

Motion was made by Ms. Marlar, seconded by Mr. Weatherington, to:

**LEAVE 1200-08-32-.08(13)(c)(2) LANGUAGE AS IS.**

After further discussion, Mr. Scott representing Davita withdrew the request presented regarding paging systems. Ms. Begley then stated the concern with the rule is that surveyors when surveying a facility will cite the facility if they do not see a paging or nurse call system. Ms. Reed explained to the Board the surveyors review facility files prior to survey and would be aware of the nurse call and paging systems in place. The Chairman then asked legal counsel if this was a department recommendation for a change to the rule language. Ms. Begley, legal counsel, indicated yes. The department recommended the following: 1200-08-32-.08(13)(c) to state, "An electrical system that complies with applicable codes "and delete the rest, subparts and subparagraphs. This recommendation is for all licensed facility types.

Motion was made by Ms. Snodgrass, seconded by Dr. Jones, to:

**ACCEPT THE STAFF'S RECOMMENDATION TO REVISE ITEM (c) TO READ "AN ELECTRICAL SYSTEM THAT COMPLIES WITH APPLICABLE CODES" AND REMOVE ALL OF THE SUB-NUMBERS BELOW.**

Motion carried by voice vote.

Ms. Begley also informed the Board that there was an accidental omission in the code section and that omission was the 2006 edition of the AIA Guidelines. The Board is currently using the 2006 edition of the AIA Guidelines to review plans. The Board may add the 2006 edition of the AIA Guidelines at this rulemaking hearing because this edition will not impose any stringent standards on the licensees and will add to the ESRD rules. Ms. Snodgrass made note that the 2009 Guidelines are about to come out. Mr. Baker explained that the State's Fire Marshal Office just approved the 2006 IBC, 2006 NFPA so that the architects or engineers out of state or in-state working with our Department or the State's Fire Marshal Office will be under the same codes that is basically why we stay with those codes. The State's Fire Marshal Office does not review under AIA guidelines. Ms. Snodgrass felt the AIA Guidelines are more independent and we should be staying with the latest version.

Motion was made by Ms. Snodgrass, seconded by Dr. Jones, to:

**INCLUDE THE 2009 AIA GUIDELINES TO THE LIST OF CODES AND REGULATIONS TO BE ADDED TO THE RULES.**

Motion carried by voice vote.

Ms. Begley asked for a motion to adopt the rules as presented and amended and to accept the changes as amended or adopted by the Board on these rules.

Motion was made by Mr. Weatherington, seconded by Ms. Chadwell, to:

**ACCEPT ALL OF THE CHANGES AS AMENDED REGARDING THE RULES THAT WERE PRESENTED TODAY TO THE BOARD AND TO ADOPT THE AMENDED RULES.**

Motion carried unanimously by roll call vote.

The rulemaking hearing at 10:30 a.m. was adjourned. The next hearing will begin at 1:00 p.m.

Respectfully submitted,

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Robert Gordon  
Board Secretary

RG/weh