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RILEY C. DARNELL
Secretary of State

Division of Publications
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PREFACE

The Tennessee Administrative Register (T.A.R) is an official publication of the Tennessee Department of State. The *T.A.R.* is compiled and published monthly by the Department of State pursuant to *Tennessee Code Annotated, Title 4, Chapter 5*. The *T.A.R.* contains in their entirety or in summary form the following: (1) various announcements (e.g. the maximum effective rate of interest on home loans as set by the Department of Commerce and Insurance, formula rate of interest and notices of review cycles); (2) emergency rules; (3) proposed rules; (4) public necessity rules; (5) notices of rulemaking hearings and (6) proclamations of the Wildlife Resources Commission.

Emergency Rules are rules promulgated due to an immediate danger to the public health, safety or welfare. These rules are effective immediately on the date of filing and remain in effect thereafter for up to 165 days. Unless the rule is promulgated in some permanent form, it will expire after the 165-day period. The text or a summary of the emergency rule will be published in the next issue of the *T.A.R.* after the rule is filed. Thereafter, a list of emergency rules currently in effect will be published.

Proposed Rules are those rules the agency is promulgating in permanent form in the absence of a rulemaking hearing. Unless a rulemaking hearing is requested within 30 days of the date the proposed rule is published in the *T.A.R.*, the rule will become effective 105 days after said publication date. All rules filed in one month will be published in the *T.A.R.* of the following month.

Public Necessity Rules are promulgated to delay the effective date of another rule that is not yet effective, to satisfy constitutional requirements or court orders, or to avoid loss of federal programs or funds. Upon filing, these rules are effective for a period of 165 days. The text or summary of the public necessity rule will be published in the next issue of the *T.A.R.* Thereafter, a list of public necessity rules currently in effect will be published.

Once a rule becomes effective, it is published in its entirety in the *official compilation-Rules and Regulations of the State of Tennessee*. Replacement pages for the compilation are published on a monthly basis as new rules or changes in existing rules become effective.

Wildlife Proclamations contain seasons, creel, size and bag limits, and areas open to hunting and/or fishing. They also establish wildlife and/or public hunting areas and declare the manner and means of taking. Since Wildlife Proclamations are published in their entirety in the *T.A.R.*, they are not published in the official compilation-Rules and Regulations of the State of Tennessee.

Subscription Orders - The subscription rate, payable in advance, is \$ 50 per year. An order form may be found in the back of each issue of the *Tennessee Administrative Register*.

Back Issues - Some back issues of the *Tennessee Administrative Register* are available. Please send \$ 1.50 per issue along with the volume, number and date you wish to order to the address in the back of this issue.

Copies of Rules from Back Issues of the *Tennessee Administrative Register* may be ordered from the Division of Publications for 25 cents per page with \$ 1.00 minimum. Back issues presently available start with the August, 1975 edition. The mailing address of the Division of Publications is shown on the order form in the back of each issue.

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ANNOUNCEMENTS

DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180

ANNOUNCEMENT OF FORMULA RATE OF INTEREST

Pursuant to the provisions of Chapter 464, Public Acts of 1983, the Commissioner of Financial Institutions hereby announces that the formula rate of interest is 13.50 per cent.

This announcement is placed in the Tennessee Administrative Register for the purpose of information only and does not constitute a rule within the meaning of the Uniform Administrative Procedures Act.

DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180

ANNOUNCEMENT OF MAXIMUM EFFECTIVE RATE OF INTEREST

The Federal National Mortgage Association has discontinued its free market auction system for commitments to purchase conventional home mortgages. Therefore, the Commissioner of Financial Institutions hereby announces that the maximum effective rate of interest per annum for home loans as set by the General Assembly in 1987, Public Chapter 291, for the month of December, 2000 is 9.80 per cent per annum.

The rate as set by the said law is an amount equal to four percentage points above the index of market yields of long term government bonds adjusted to a thirty (30) year maturity by the U. S. Department of the Treasury. For the most recent weekly average statistical data available preceding the date of this announcement, the published rate is 5.80 per cent.

Persons affected by the maximum effective rate of interest for home loans as set forth in this notice should consult legal counsel as to the effect of the Depository Institutions Deregulation and Monetary Control Act of 1980 (P. L. 96-221 as amended by P. L. 96-399) and regulations pursuant to that Act promulgated by the Federal Home Loan Bank Board. State usury laws as they relate to certain loans made after March 31, 1980, may be preempted by this Act.

GOVERNMENT OPERATIONS COMMITTEES

ANNOUNCEMENT OF PUBLIC HEARINGS

For the date, time, and, location of this hearing of the Joint Operations committees, call 615-741-3642. The following rules were filed in the Secretary of State's office during the month of October, 2000. All persons who wish to testify at the hearings or who wish to submit written statements on information for inclusion in the staff report on the rules should promptly notify Fred Standbrook, Suite G-3, War Memorial Building, Nashville, TN 37243-0059, (615) 741-3074.

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
10-01	Oct 2, 2000	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	Chapter 1660-1-2 Rules and Regulations for Birds 1660-1-2-.02 Migratory Bird Hunting	Sheryl Holtam Staff Attorney TWRA P. O. Box 40747 Nashville, TN 37204 (615) 781-6606	Dec 16, 2000
10-02	Oct 2, 2000	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	Chapter 1660-1-17 Rules and Regulations Governing the Commercial Use of Wildlife 1660-1-17-.01 General Provisions for Commercial Use	Sheryl Holtam Staff Attorney TWRA P. O. Box 40747 Nashville, TN 37204 (615) 781-6606	Dec 16, 2000
10-03	Oct 2, 2000	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	Chapter 1660-1-8 Rules and Regulations of Hunts 1660-1-8-.05 Permit Applications and Drawings	Sheryl Holtam Staff Attorney TWRA P. O. Box 40747 Nashville, TN 37204 (615) 781-6606	Dec 16, 2000
10-10	Oct 19, 2000	0180 Dept of Financial Institutions Bank Division	Proposed Rules	Amendments	Chapter 0180-7 Rules of Practice: Applications, Instructions, Forms, Reports of State Banks and Schedule of Application Fees for State Banks, BIDCOs, Savings Banks and Trust Companies 0180-7-.02 Application Procedure For New Bank Charter 0180-7-.02 Application Procedure for New Bank Charter 0180-7-.06 Formation of Interim Banks 0180-7-.08 Fees	Marsha P. Anderson Staff Attorney 27th Fl, Snodgrass Twr 615/532-1030	Feb 28, 2000
10-12	Oct 23, 2000	0400 Dept of Environment and Conservation Division of Natural Heritage	Rulemaking Hearing Rules	Amendments	Chapter 0400-6-2 Rare Plant Protection and Conservation Regulations 0400-6-2-.04 List of Endangered Species	Reginal Reeves, Director Division of Natural Heritage Telephone: 532-0431	Jan 6, 2001
10-13	Oct 23, 2000	1360 Dept of State Division of Business Services	Rulemaking Hearing Rules	New Rules	Chapter 1360-8-1 Uniform Commercial Code Chapter 1360-8-2 Uniform Commercial Code Acceptance and Refusal of Documents Chapter 1360-8-3 Uniform Commercial Code Information Management System	Bob Grunow Director of Business Services Dept of State 312 8 th Ave N 6 th Fl Snodgrass Twr Nashville TN 37243 615-741-0584	Jan 6, 2001

ANNOUNCEMENTS

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SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
10-14	Oct 20, 2000	0620 Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-13-12 Bureau of TennCare 1200-13-12-.05 Enrollee Cost Sharing</i>	George Woods Bureau of TennCare 729 Church St Nashville TN 37247 615-741-0145	Jan 6, 2001
10-15	Oct 30, 2000	1220 TN Regulatory Authority Energy And Water Division	Rulemaking Hearing Rules	Amendments	<i>Chapter 1220-4-4 Regulations for Electric Companies</i>	K. David Waddell TN Regulatory Authority 460 James Robertson Parkway Nashville, TN 37343 615-741-2909	Jan 13, 2001
10-18	Oct 31, 2000	0400 Dept of Environment and Conservation Division of Water Supply	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-5-1 Public Water Systems 1200-5-1-.04 1200-5-1-.05 Supervision of Design and Construction 1200-5-1-.06 Maximum Contaminant Levels Monitoring and Analytical Requirements 1200-5-1-.17 Operations and Maintenance Required 1200-5-1-.19 Notification of Customers 1200-5-1-.22 Trihalomethanes 1200-5-1-.23 Total Trihalomethane Sampling Analytical and Other Requirements 1200-5-1-.28 Special Monitoring for Organic and Inorganic Contaminants 1200-5-1-.31 Filtration and Disinfection 1200-5-1-.35 Consumer Confidence Reports 1200-5-1-.36 Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors</i>	Alan Lieserson OGC Snodgrass Twr 312 8 th Ave N Nashville TN 37243-1548 (615) 532-0125	Jan 14, 2001
10-21	Oct 31, 2000	0520 Board of Education	Proposed Rule	Amendments	<i>Chapter 0520-1-3 Minimum Requirements for the Approval of Public Schools 0520-1-3-.06 Graduation, Requirement E</i>	Karen Weeks 9th Fl 710 JRobertson Pkwy, Nashville, TN, 37243-1050, (615) 532-3528	Feb 28, 2000
10-22	Oct 31, 2000	0520 Board of Education	Proposed Rule	Amendments	<i>Chapter 0520-2-4 Licensure 0520-2-4-.05 The Praxis Series: Professional Assessments for Beginning Teachers</i>	Karen Weeks (See above)	Feb 28, 2000

**DEPARTMENT OF HEALTH - 1200
DIVISION OF GENERAL ENVIRONMENTAL HEALTH**

NOTICE OF WITHDRAWAL OF RULE

CHAPTER 1200-23-1

The Department of Health hereby withdraws the following language from rule 1200-23-1-.03((3)(d) Establishment Permitting and Inspection System which is part of the rules for Food Service Establishments which become effective on November 7, 2000. The language is inconsistent with the applicable statute, Tennessee Code Annotate 68-14-318(b).

An opportunity for a hearing concerning the inspection and/or inspection report and/or on the ordered corrective action will be provided, if written request is filed with the Commissioner within ten (10) calendar days following the inspection.

Filed with the Secretary of State on the 3rd day of November, 2000.

HEALTH FACILITIES COMMISSION - 0720

NOTICE OF BEGINNING OF REVIEW CYCLE

Applications will be heard at the December 13, 2000
Health Facilities Commission Meeting except as otherwise noted.

**Denotes applications being placed on the Consent Calendar.*

+Denotes applications under simultaneous review.

This is to provide official notification that the Certificate of Need applications listed below have begun their official 90-day review cycle effective October 1, 2000. The review cycle includes a 60-day period of review by the Division of Assessment and Planning within the Tennessee Department of Health or the Department of Mental Health and Mental Retardation. During this 60-day period, the Department of Health may hold a public hearing, if requested, with respect to each application and will conclude the period with a written report. *Pursuant to Public Chapter 120, Acts of 1993, certain unopposed applications may be placed on a "consent calendar." Such applications are subject to a 60-day review cycle, including a 30-day period of review by the Department of Health, Division of Assessment and Planning or the Department of Mental Health and Mental Retardation. Applications intended to be considered on the consent calendar, if any, are denoted by an asterisk.*

Pursuant to T.C.A., Section 68-11-108(h)(1) effective April 5, 2000, any health care institution wishing to oppose a Certificate of Need must file a written objection with the Tennessee Health Facilities Commission and serve a copy on the contact person no later than fifteen (15) days before the regularly scheduled Tennessee Health Facilities Commission meeting at which the application will be heard.

For more information concerning each application or its review cycle, you may contact the Tennessee Department of Health/ Division of Assessment & Planning (615/741-0244), their designee, or the Health Facilities Commission (615/741-2364).

NAME AND ADDRESS

DESCRIPTION

National Treatment Centers, Inc.
3140 Tchulahoma, Suite 7
Memphis (Shelby Co.), TN 38116
David May – (901)—374-9027
CN0007-060

The establishment of a non-residential methadone treatment facility. The facility will be located at 3140 Tchulahoma, Suite 7, in Memphis (Shelby County), Tennessee. The proposed service area will consist of the southern portion of Shelby County.
\$ 80,080

Plaza Radiology, LLC d/b/a
Chattanooga Imaging
1710 Gunbarrel Road
Chattanooga (Hamilton Co.), TN 37421
Robert F. Phlegar, M.D. – (423)—778-8604
CN0008-076

The initiation of mobile Positron Emission Tomography (PET) services at the Chattanooga Imaging – East site located at 1710 Gunbarrel Road in Chattanooga, Tennessee.
\$ 522,660

Plaza Radiology, LLC d/b/a
Chattanooga Imaging
Erlanger Medical Center
975 East Third Street
Chattanooga (Hamilton Co.), TN 37403
Robert F. Phlegar, M.D. – (423)—778-8604
CN0008-077

The initiation of mobile Positron Emission Tomography (PET) services at the Chattanooga Imaging site located on the Erlanger Medical Center campus at 975 East Third Street in Chattanooga, Tennessee.
\$ 573,463

Centennial Medical Center Outpatient Diagnostic Center
2400 Parman Place
Nashville (Davidson Co.), TN 37203
John Wellborn – (615)—269-0070
CN0009-084

The establishment of an outpatient diagnostic center in Medical Office Building B on the campus of Centennial Medical Center. Medical equipment will include one (1) MRI, two (2) CT scanners and one (1) radiography/fluoroscopy room.
\$ 6,536,900

Kentucky Lake Surgery Center
1002 Cornerstone Drive, Suite B
Paris (Henry Co.), TN 38242
John Wellborn – (615)—269-0070
CN0009-085

The initiation of mobile extracorporeal lithotripsy services, two Wednesdays per month, at the site of the ambulatory surgical treatment center located at 1002 Cornerstone Drive, Suite B, in Paris (Henry County), Tennessee.
\$ 633,000

Home Care Solutions, Inc.
9420 Ooltewah Industrial Drive
Chattanooga (Hamilton Co.), TN 37363
E. Graham Baker, Jr. – (615)—383-3332
CN0009-086

The expansion of the current service area of the Home Health Agency to include Grundy County and to request removal of the condition/restriction that the Home Health Agency can only serve infusion therapy patients. If approved, the applicant's service area will consist of the following counties: Bledsoe, Bradley, Grundy, Hamilton, Marion, McMinn, Meigs, Polk, Rhea, and Sequatchie. The parent office will remain at 9420 Ooltewah Industrial Drive in Chattanooga (Hamilton County), Tennessee.
\$ 50,000

NAME AND ADDRESS	DESCRIPTION
+Morristown Surgery Center 7 th Street North Morristown (Hamblen Co.), TN 37814 Michael Terry – (423)—586-2303 CN0009-087	The establishment of an ambulatory surgical treatment center, which will include two (2) operating rooms. The proposed facility is to be located at 7 th Street North adjacent to Morristown Hospital, Inc. in Morristown (Hamblen County), Tennessee. \$ 1,540,000
Vanderbilt-Williamson Cancer Center, L.L.C. Behind Vanderbilt Health Services 2105 Edward Curd Lane Franklin (Williamson Co.), TN 37067 CN0009-090	The relocation and establishment of a cancer treatment center, acquisition of a linear accelerator, and the initiation of radiation therapy services at a currently non-addressed site in Franklin (Williamson County), Tennessee consisting of approximately 21,000 square feet of space. This cancer treatment center was previously proposed under Certificate of Need, CN9908-065A, which was approved during the November 17, 1999 Commission Meeting. The facility will be licensed as an ambulatory surgical treatment center. \$ 7,369,921
Vision Correction Center 825 Ridge Lake Boulevard Memphis (Shelby Co.), TN 38120 William West – (615)—259-1450 CN0009-091	The establishment of an ambulatory surgical treatment center limited to ophthalmologic and related procedures. The center will be located on the first floor of an office building at 825 Ridge Lake Boulevard in Memphis, Shelby County, Tennessee and will contain two operating rooms. \$ 855,000
+Associates of the Meridian Health Outpatient Surgery Center, LLC 908 West Fourth North Street Morristown (Hamblen Co.), TN 37814 Benny Brewster – (423)—586-4231 CN0009-092	The establishment of an ambulatory surgical treatment center, which will include four (4) operating suites. The proposed facility is to be located at 908 West Fourth North Street, adjacent to Morristown-Hamblen Hospital in Morristown (Hamblen County), Tennessee. \$ 3,857,362

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

(For the text of the Emergency rules see issue of T.A.R. cited)

- 1500 - Tennessee Human Rights Commission, emergency rule providing for the hiring of private contractors to investigate complaints of discrimination, chapter 1500-1, Rules for Acting Upon Complaints of Discrimination, 10 T.A.R. (October 2000) - Effective September 7, 2000 through February 18, 2001. (09-16)
- 1500 - Tennessee Human Rights Commission, emergency rule providing for the hiring of private contractors to investigate complaints of discrimination, chapter 1500-1, Rules for Acting Upon Complaints of Discrimination, 10 T.A.R. (October 2000) - Effective September 7, 2000 through February 18, 2001. (09-13)
- 1660 - Wildlife Resources Commission - Emergency rules dealing with waterfowl blind sites, Chapter 1660-1-2, Rules and Regulations for Birds; and Chapter 1660-1-8, Rules and Regulations for Hunts, 10 T.A.R. (October 2000) - Effective September 6, 2000 through February 19, 2001. (09-19)

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PROPOSED RULES

STATE BOARD OF EDUCATION - 0520

CHAPTER 0520-1-3 MINIMUM REQUIREMENTS FOR THE APPROVAL OF PUBLIC SCHOOLS

Presented herein is the proposed amendment of the State Board of Education submitted pursuant to T. C. A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8th Floor – William Snodgrass Building, 312 8th Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact Karen Weeks, State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 532-3528.

The text of the proposed rule is as follows:

AMENDMENTS

Part 5 of subparagraph (f) of paragraph (1) of rule 0520-1-3-.06 Graduation, Requirement E is amended by deleting the part in its entirety and substituting instead the following language so that as amended the part shall read:

5. Business and Information Technology
 - (i) Computer Productivity Applications
 - (ii) Accounting I
 - (iii) Accounting II
 - (iv) American Business/Legal Systems*
 - (v) Principles of Business
 - (vi) Financial Planning
 - (vii) Business Economics**

- (viii) Programming Applications
- (ix) Keyboarding
- (x) International Business/Marketing**
- (xi) Internet Navigation Communication Systems
- (xii) Management

- (xiii) Keyboarding Applications
- (xiv) Document Creation Design
- (xv) Automated Accounting
- (xvi) Spreadsheet Applications
- (xvii) Information Management Systems
- (xviii) Database Design/Management
- (xix) Administrative Management Systems
- (xx) Desktop Publishing
- (xxi) Electronic Commerce/Web Page Design
- (xxii) Networking Essentials

* American Business/Legal Systems satisfies one-half credit in government

** Business Economics or International Business/Marketing satisfy one-half credit in economics.

Authority: T.C.A. § 49-1-302.

The proposed rules set out herein were properly filed in the Department of State on the 31st day of October, 2000, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of February, 2001. (10-21)

STATE BOARD OF EDUCATION - 0520**CHAPTER 0520-2-4
LICENSURE**

Presented herein is the proposed amendment of the State Board of Education submitted pursuant to T. C. A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8th Floor – William Snodgrass Building, 312 8th Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact Karen Weeks, State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 532-3528.

The text of the proposed rule is as follows:

AMENDMENTS

Paragraph (4) of Rule 0520-2-4-.05 The Praxis Series: Professional Assessments for Beginning Teachers is amended by deleting the paragraph in its entirety and substituting instead the following language so that as amended the paragraph shall read:

- (4) An applicant from another state may be exempt from testing requirements if the applicant meets one of the following conditions:
 - (a) The applicant holds a valid license from a reciprocal state and provides verification of appropriate experience or
 - (b) The applicant completes a teacher preparation program in a reciprocal state and holds a full license from that state or
 - (c) The applicant has been certified by the National Board for Professional Teaching Standards

Rule 0520-2-4-.05 The Praxis Series: Professional Assessments for Beginning Teachers is amended by adding the following language as paragraph (5) so that as amended the rule shall read:

- (5) The examinations and corresponding required scores are as follows:

Tennessee Educator Licensure Examinations

Test Code	Endorsement Area	Test Title	Minimum Qualifying Score	Effective Date Sept. 1
0522	All Areas (See Note)	Principles of Learning and Teaching, K-6 or	155	1998
0523		Principles of Learning and Teaching, 5-9 or	154	1999
0524		Principles of Learning and Teaching, 7-12	159	1998
1010	Administrator	School Leader Licensure Assessment	156	2001
0700	Agricultural Education	Agriculture	530	1998
0133	Art	Art: Content Knowledge	150	1998
0132	Art	Art: Content, Traditions, Criticism & Aesthetics	140	2001
0131	Art	Art: Art Making	155	2001
0231	Biology	Biology: Content Knowledge, Part 1	146	1995
0432	Biology	General Science: Content Knowledge, Part 2	136	1995
0234	Biology	Biology: Pedagogy	146	1999
0233	Biology	Choice of Biology Content Essays or	146	1999
0433	Biology	General Science Content Essays	130	1999
0100	Business/Accounting	Business Education	570	1996
0241	Chemistry	Chemistry: Content Knowledge	136	1995
0431	Chemistry	General Science: Content Knowledge, Part 1	138	1995
0483	Chemistry	Physical Science: Pedagogy	148	1999
0242	Chemistry	Choice of Chemistry Content Essays or	140	1999
0433	Chemistry	General Science Content Essays	130	1999
0020	Early Childhood Education	Early Childhood Education	570	1996
0011	Early Childhood Education	Elementary Education: Curriculum Instruction and Assessment	159	2001
0014	Early Childhood Education	Elementary School: Content Knowledge	NM	2001
0571	Earth Science	Earth Science: Content Knowledge	144	1998
0431	Earth Science	General Science: Content Knowledge, Part 1	138	1998
0483	Earth Science	Physical Science: Pedagogy	148	1999
0910	Economics	Economics	560	1996
0011	Elementary Education K-8, 1-8	Elementary Education: Curriculum, Instruction, and Assessment	159	1998
0012	Elementary Education K-8, 1-8	Elementary Education: Content Area Exercises	138	2001
0014	Elementary Education K-8, 1-8	Elementary School: Content Knowledge or	NM	2001
0146		Middle School: Content Knowledge	150	2001
0041	English	Language, Literature, Composition: Content Knowledge	157	1995
0042	English	Language, Literature, Comp.: Essays	150	1999
0043	English	Language, Literature, Comp.: Pedagogy	145	1999
0360	English as a Second Language	Teaching English as a Second Language	530	1999

Test Code	Endorsement Area	Test Title	Minimum Qualifying Score	Effective Date Sept. 1
0920	Geography	Geography	520	1996
0930	Government	Government/Political Science	560	1996
0550	Health	Health Education	570	1997
0940	History	World and U.S. History	520	1996
0120	Home Economics	Home Economics Education	580	1996
	Languages:			
0173	French	French: Content Knowledge	160	1998
0171	French	French: Productive Language Skills	165	2001
0181	German	German: Content Knowledge	139	1998
0600	Latin	Latin	540	1996
0191	Spanish	Spanish: Content Knowledge	152	1995
0192	Spanish	Spanish: Productive Language Skills	154	1999
0310	Librarian	Library Media Specialist	600	2000
0560	Marketing	Marketing Education	640	1999
0061	Mathematics	Mathematics: Content Knowledge	136	1995
0065	Mathematics	Mathematics: Pedagogy	125	1999
0146	Middle Grades 5-8	Middle School: Content Knowledge	150	2000
0113	Music	Music: Content Knowledge	150	1998
0111	Music	Music: Concepts and Processes	145	2001
0091	Physical Education	Physical Education: Content Knowledge	152	1995
0092	Physical Education	Physical Education: Movement Forms - Analysis & Design	148	1999
0261	Physics	Physics: Content Knowledge	124	1995
0431	Physics	General Science: Content Knowledge, Part 1	138	1995
0483	Physics	Physical Science: Pedagogy	148	1999
0262	Physics	Choice of Physics: Content Essays or	135	1999
0433	Physics	General Science Content Essays	130	1999
0390	Psychology	Psychology	560	1997
0420	School Counselor	School Guidance and Counseling	580	1996
0400	School Psychologist	School Psychologist	590	1998
0210	School Social Worker	School Social Worker	640	1997
0950	Sociology	Sociology	540	1996
	Special Education:			
0351	All Special Education Areas (See Note)	Special Education: Knowledge-Based Core Principles	145	1999
0352		Special Education: Applications of Core Principles	140	1999
0271	Hearing	Special Education: Education of Deaf and Hard of Hearing Students	163	2001
0690	Preschool/Early Childhood	Special Education: Preschool/Early Childhood	560	1997
0330	Speech/Language	Speech-Language Pathology	600	2000
0280	Vision	Special Education: Teaching Students with Visual Impairments	700	2001
0220	Speech	Speech Communications	570	1998
0050	Technology Education	Technology Education	580	1996
0640	Theatre	Theatre	610	1997

Note: "NM" means score submission required without minimum score established.

Note: Candidates seeking licensure in early childhood education, PreK-3, or early childhood special education PreK-1 will take Principles of Learning and Teaching (PLT) K-6. Candidates seeking licensure in elementary education, K-8 or 1-8, may choose either PLT K-6 or PLT 5-9. Candidates seeking licensure in middle grades 5-8 will take PLT 5-9. Candidates seeking licensure in secondary education areas will take PLT 7-12. Candidates seeking licensure in K-12, or preK-12 areas may choose PLT K-6, PLT 5-9, or PLT 7-12.

Note: Candidates in elementary education, K-8 or 1-8, may choose either Elementary School Content Knowledge or Middle School Content Knowledge.

Note: Candidates in biology, chemistry, and physics may choose either the general science content essay or the subject area (biology, chemistry, or physics) content essays. Candidates seeking an additional endorsement in biology, chemistry, earth science, or physics will be required to take only the content knowledge exam for endorsement in the additional science area.

Note: The Special Education tests of Knowledge-Based Core Principles and Applications of Core Principles apply to the following special education areas: Modified Program, Comprehensive Program, Hearing, Vision and Preschool/Early Childhood.

The proposed rules set out herein were properly filed in the Department of State on the 31st day of October, 2000, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of February, 2001. (10-22)

**TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180
BANK DIVISION**

CHAPTER 0180-7

**RULES OF PRACTICE: APPLICATIONS, INSTRUCTIONS, FORMS, REPORTS OF STATE
BANKS AND SCHEDULE OF APPLICATION FEES FOR STATE BANKS, BIDCOS, SAVINGS BANKS
AND TRUST COMPANIES**

Presented herein are proposed amendments of the Department of Financial Institutions submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Financial Institutions to promulgate these amendments without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the *Tennessee Administrative Register* in which the proposed amendments are published. Such petition to be effective must be filed in Room 408 of the John Sevier Building located at 500 Charlotte Avenue, Nashville, Tennessee 37243-0705 and in the Department of State, Fifth Floor, James K. Polk State Office Building, Sixth and Deaderick, Nashville, Tennessee 37219-0310, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the proposed amendments contact: Marsha P. Anderson, Staff Attorney, Tennessee Department of Financial Institutions, 27th Floor William R. Snodgrass Tennessee Tower, 312 8th Avenue North, 615/532-1030.

The text of the proposed amendments is as follows:

AMENDMENTS

Subparagraph (c) of paragraph (1) of Rule 0180-7-.02 Application Procedure For New Bank Charter is amended by deleting the words "if subscription funds will be placed in an escrow account" so that as amended the rule shall read:

- (c) a copy of any escrow agreement.

Authority: T.C.A. §§45-1-107, 45-2-202 and 45-2-203.

Paragraph (13) of Rule 0180-7-.02 Application Procedure for New Bank Charter is amended by deleting the current rule in its entirety and substituting the following language so that as amended the rule shall read:

- (13) Upon approval of the application for a charter and collection of the required capital, the incorporators shall file an application for a certificate of authority in accordance with T.C.A. §45-2-212. If the conditions and requirements enumerated in T.C.A. §45-2-214 have been met, the Commissioner shall issue the certificate of authority; provided, however, that the certificate of authority shall become null and void whenever substantially all of the assets of a bank are purchased without acquiring the charter.

Authority: T.C.A. §§ 45-1-103(10), 45-1-107, 45-2-212, 45-2-214 and 45-2-219.

Rule 0180-7-.06 Formation of Interim Banks is amended by adding the following language:

- (6) Interim Bank as Survivor. If, after the merger or consolidation, the interim bank, rather than the existing bank, is the surviving bank, the certificate of authority issued to the existing bank shall be endorsed over to the surviving bank, the surviving bank shall therefore have the age of the existing bank.

Authority: T.C.A. §§45-1-107, 45-2-204(c) and 45-2-1403.

Rule 0180-7-.08 (1) Fees is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

- (1) Following are the fees charged for each particular type of application. If a process involves more than one application, the institution will be charged a separate fee for each application.
 - (a) Application to organize a state bank, state BIDCO, state savings bank, state trust company or state credit card bank.....\$8,500.00
 - (b) Application to establish a branch office for a state bank, state BIDCO, state savings bank.....\$500.00
 - (c) Application to relocate a main office or branch by a state bank, state BIDCO, state savings bank.....\$300.00
 - (d) Application to relocate an office of a state trust institution.....\$300.00
 - (e) Application to form an interim bank.....\$1,000.00
 - (f) Application for a merger where the resulting institution will be a state-chartered bank, state-chartered savings bank, state trust company or state BIDCO and any change of control application.....\$3,000.00
 - (g) Application for an acquisition where the resulting institution will be a state-chartered bank, state-chartered savings bank, state BIDCO or state trust company.....\$3,000.00
 - (h) Application to convert to a state bank, state savings bank or state trust company.....\$3,000.00
 - (i) Application for a purchase and assumption transaction of less than substantially all of the assets of a bank by a state-chartered savings bank, or a state BIDCO.....\$500.00
 - (j) Licensing fee per location for a state BIDCO.....\$500.00
 - (k) Application to engage directly or indirectly through a subsidiary in securities activities by a state bank, savings bank or state trust company.....\$1,000.00
 - (l) Filing fee for a state trust institution to establish or acquire a trust office.....\$500.00
 - (m) Application for private trust company status.....\$1,000.00
 - (n) Annual certification to maintain status as an exempt private trust company.....\$250.00
 - (o) Filing fee for conversion from private trust company to public trust company.....\$8,500.00

Authority: T.C.A. §§ 45-1-107, 45-1-118, 45-2-103, 45-8-204, 45-2-215, 45-2-218, 45-2-614, 45-2-1303, 45-2-1304, 45-2-1307, 45-2-1402, 45-2-1403, 45-2-1802, 45-2-1803, 45-2-1902, 45-3-1002, 45-3-1003, 45-8-207, 45-8-208, 45-8-211, 45-8-214, 45-11-105, 45-14-103, 45-14-104, 45-14-110, 45-14-111, 45-14-113 and Chapter 112 of the Public Acts of 1999.

The proposed rules set out herein were properly filed in the Department of State on the 19th day of October 20, 2000, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of February, 2001. (10-10)

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

- 0400 - Department of Environment and Conservation, Division of Water Pollution Control, Public necessity rules implementing Section 8 of the Inter-Basin Water Transfer Act, , Chapter 1200-4-13, Inter-Basin Water Transfers, 10 T.A.R. (October 2000) - Filed September 29, 2000; effective through March 13, 2001. (09-29)
- 0940 - Department of Mental Health and Developmental Disabilities, Office of the Commissioner, Public necessity rules dealing with the Abuse Registry, cChapter 0940-1-4 Reporting to Statewide Abuse Registry of Suspected Client Abuse, Neglect, Mistreatment 10 T.A.R. (October 2000) - Filed September 21, 2000; effective through March 5, 2001. (09-20)
- 1240 - Department of Human Services - Family Assistance Division - Public necessity rules dealing with the Families First program, chapter 1240-1-50, Standard for Need/Income, 8 T.A.R. (August 2000) - Filed July 3, 2000; effective through December 15, 2000. (07-06)
- 1240 - Department of Human Services - Community and Field Services Division - Public necessity rules concerning child care standards for children being cared for in group day care homes licensed by the Department of Human Services, chapter 1240-4-1, Standards for Group Day Care Homes, 6 T.A.R. (June 2000) - Filed June 30, 2000; effective through December 12, 2000. (06-38)
- 1240 - Department of Human Services - Community and Field Services Division - Public necessity rules concerning child care standards for children being cared for in child care centers caring for pre-school children licensed by the Department of Human Services, chapter 1240-4-3, Licensure Rules for Child Care Centers Serving Pre-School Children, 6 T.A.R. (June 2000) - Filed June 30, 2000; effective through December 12, 2000. (06-37)
- 1240 - Department of Human Services - Community and Field Services Division - Public necessity rules concerning child care standards for children being cared for in family day care homes licensed by the Department of Human Services, chapter 1240-4-4, Standards for Family Day Care Homes, 6 T.A.R. (June 2000) - Filed June 30, 2000; effective through December 12, 2000. (06-39)
- 1240 - Department of Human Services - Community and Field Services Division - Public necessity rules concerning child care standards for children being cared for in child care centers serving school-age children licensed by the Department of Human Services, chapter 1240-4-6, Licensure Rules for Child Care Centers Serving School-Age Children, 6 T.A.R. (June 2000) - Filed June 30, 2000; effective through December 12, 2000. (06-41)
- 1240 - Department of Human Services - Community and Field Services Division - Public necessity rules dealing with the enforcement of licensing violations involving child care agencies which it licenses by the Department of Human Services, chapter 1240-5-11, Procedures Affecting Licenses of Child Welfare Agencies, 7 T.A.R. (July 2000), - Filed June 30, 2000; effective through December 12, 2000. (06-40)

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RULEMAKING HEARINGS

DEPARTMENT OF COMMERCE AND INSURANCE - 0780 DIVISION OF INSURANCE AND DIVISION OF TENNCARE

There will be a hearing before the Department of Commerce and Insurance to consider the promulgation of rules respecting Prepaid Limited Health Service Organizations, pursuant to Tenn. Code Ann. § 56-1-702 and Section 53, Chapter 948, Public Acts, 2000. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204, and will take place in Room 160 of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee at nine (9) o'clock in the morning on the 18th day of December, 2000.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of Commerce and Insurance to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Department of Commerce and Insurance to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Commerce and Insurance's ADA Coordinator, Ms. Verna Norris, at Fifth Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243, and (615) 741-0481.

For a copy of the entire text of this notice of rulemaking hearing, contact: Robert E. Moore, Jr., Chief Counsel for Insurance and TennCare Oversight, 312 Eighth Avenue North, Twenty-Fifth Floor, William R. Snodgrass Tennessee Tower, Nashville, Tennessee 37243, Department of Commerce and Insurance, and (615) 741-2199.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0780-1-70 PREPAID LIMITED HEALTH SERVICE ORGANIZATIONS

NEW RULES

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0780-1-70-.11 Cancellation of Subscriber Contracts.	0780-1-70-.24 Change of Name.
0780-1-70-.12 Primary Care Person.	0780-1-70-.25 Change of Ownership.
0780-1-70-.13 Filing, Approval of Prepaid Limited Health Service Contract and Related Forms.	

0780-1-70-.01 SCOPE

The following rules developed by the Department of Commerce and Insurance govern the issuance of a Certificate of Authority and the operation of a prepaid limited health service organization pursuant to the authority set forth in Public Acts 2000, Chapter 948.

For the purposes of these rules, a “prepaid limited health service organization” means any person or any entity which, in return for a prepayment from a health maintenance organization or a state or federal agency, undertakes to provide or arrange for, or provide access to, the provision of a limited health service to enrollees through a panel of providers.

A prepaid limited health service organization may not contract with individuals, but only through a health maintenance organization or a state or federal agency

A “limited health service” means dental care services, vision care services, such as mental health services, substance abuse services, and pharmaceutical services. Mental health services and substance abuse services are sometimes referred to as “behavioral health services” and any reference to mental health services or substance abuse services includes those services also referred to as behavioral health services. Limited health services also include case management of limited health services.

A “Limited health service” does not include inpatient, hospital surgical services, or emergency services except as such services are provided incident to the limited health services. For the purposes of these rules, the term “limited health service” can include inpatient mental health or inpatient substance abuse services.

Prepaid limited health service organizations do not include: Indemnity Plans; providers or provider entities providing services at the direction of a prepaid limited health service organization, a health maintenance organization, a health insurer, or a self-insurance plan; or Preferred Provider Organizations or Brokers that do not accept risk or responsibility for risk or payment, such as a person or entity that, in exchange for fees, dues, charges or other consideration, provides access to a limited health service provider without assuming any risk or responsibility for payment.

0780-1-70-.02 DEFINITIONS FOR THE PURPOSE OF THESE RULES.

- (1) All terms defined in the Prepaid Limited Health Service Organization Act of 2000, Public Acts 2000, Chapter 948, which are used in these rules shall have the same meaning as in the Act. (2) “Advertising” or “Marketing” includes, but is not limited to, printed and published material, descriptive literature and sales aids, sales talks and sales materials, booklets, forms and pamphlets, illustrations, depictions and form letters, newspaper, radio, television, or direct mail advertising. This includes any material or information intended to solicit or induce membership or the purchase of a limited health service plan. (3) “Co-payment” shall mean a specific dollar amount or percentage discount as specified in a subscriber contract, except as otherwise provided for by statute, that the subscriber must pay upon receipt of covered health care services.
- (2) “Emergency Services” shall mean services which are needed immediately because of an injury or unforeseen medical condition as provided for in the subscriber contract. Emergency services shall be provided as required of health maintenance organization by the provisions of TCA. 56-7-2355 Coverage of emergency services.
- (3) “PLHSO” is the abbreviation or acronym for Prepaid Limited Health Service Organization, as that term is defined by the Prepaid Limited Health Services Organization Act of 2000.
- (4) “Premium” shall mean the contracted sum paid on behalf of a subscriber or group of subscribers on a prepaid per capita or a prepaid aggregate basis for limited health services rendered by or through the PLHSO.

- (5) "Complete Application" shall mean an application for a certificate of authority that contains all of the items specified in Rule 0780-1-70-.03 and the "Application for Certificate of Authority" form incorporated by reference in rule 0780-1-70-.29. The application must be completed in accordance with Public Acts 2000, Chapter 948 (as codified in Title 56 of the Tennessee Code Annotated), and these rules in the manner specified within the application in order for each individual item to be considered complete for the purpose of determining that a properly completed application has been filed.
- (6) "Waiting Period" shall mean that period of time which may be specified in the subscriber contract and which must follow the date a person is initially covered under the contract before coverage shall become effective as to such person.
- (7) "Pre-Existing Condition or Illness" shall mean condition, or symptoms thereof, which was diagnosed and for which the individual received medical advice or treatment from a physician within a 3 month period preceding the effective date of coverage.
- (8) "Prepayment" shall mean any premium paid on behalf of a subscriber which entitles the subscriber to access to limited health service.
- (9) "Subscriber" or "Enrollee" shall have the same meaning as "Subscriber" as contained in the Prepaid Limited Health Services Act of 2000.
- (10) "Subscriber or Enrollee contract" shall have the same meaning as "prepaid limited health service contract" as contained in the Prepaid Limited Health Services Act of 2000

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.03 APPLICATION FOR CERTIFICATE OF AUTHORITY.

An "Application for Certificate of Authority" form, accompanied by the appropriate filing fee, shall be completed by each entity desiring to obtain a certificate of authority as a PLHSO. The applicant shall specify in the application the contact person or persons for the applicant PLHSO for purposes of corresponding between the Department and the applicant PLHSO concerning the application.

The Department shall accept and begin its investigation of an application once the application has been deemed to be a complete application.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.04 CO-PAYMENT.

If required by the PLHSO, or a state or federal agency payor, co-payments will be paid when health care services and benefits are rendered. If allowed by the Subscriber contract, the PLHSO or contracted provider may assess a usual co-payment, as provided for in the benefits schedule, when a subscriber or enrollee fails to appear for an office visit or appointment, provided this is a standard procedure.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.05 GOVERNING BODY.

- (1) Each PLHSO shall have a governing body that sets policy and has overall responsibility for the organization, including the following:
 - (a) Adopting organizational by-laws, rules and regulations, or similar form of document which provides a clear, concise statement of the mission, goals, and objectives of the organization.
 - (b) Adopting a quality assurance program that monitors the key areas of the health care delivery, to identify problems and opportunities to improve the delivery of quality health care services.
 - (c) Maintaining an ongoing quality assurance credentialing program.
- (2) Nothing in this rule shall prohibit the designation of qualified management personnel to implement the provisions of subsection (1) and to manage the operation of the PLHSO in the geographic area or areas serviced. The relationship between management personnel and the governing body shall be set forth in writing, including each person's authority, responsibilities, and functions.
- (3) Biographical statements and character reports are required to be submitted to the Department, and shall also be included in the application for a Certificate of Authority (COA) on the following persons:
 - (a) All officers who are identified by the Department as officers who are responsible for conducting the affairs of the PLHSO and any other individuals who have policy decision making authority, including, but not limited to, the members of the governing body.
 - (b) All officers and directors of any parent or subsidiary corporation of the PLHSO, if applicable, and of any holding company having control over the PLHSO.
 - (c) All officers and directors of any external management company contracted with the PLHSO, if they are responsible for conducting the affairs of the PLHSO.
 - (d) This reporting requirement is of a continuing nature and also applies to individuals who, subsequent to the date of application for a COA, become associated with a PLHSO and meet any of the qualifications for requiring biographical statements and character reports.
- (4) Abbreviated biographical statements will be required to be submitted to the Department every year ~~two~~ years for those persons for whom biographical information is required. However, for PLHSOs contracting with, or providing services in a program funded by, a state or federal payor, the information to be provided must also contain the information required in TCA 71-5-127 and Section 5 of Chapter 708 of the Public Acts of 2000.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.06 EXTENSION OF BENEFITS.

- (1) Every PLHSO contract shall provide that termination of the contract by the PLHSO shall be without prejudice to any continuous loss which commenced while the contract was in force, but any extension of benefits beyond the period the contract was in force may be limited to payment for the treatment of a specific accident or illness incurred while the subscriber was a member. Such extension of benefits may be limited to the occurrence of the earliest of the following events:

- (a) The expiration of 90 days.
 - (b) A succeeding carrier elects to provide replacement coverage without limitations.
 - (c) The maximum benefits payable under the contract have been paid.
- (2) If treatment is for a condition other than a specific accident or illness and the patient is stable and is not in an acute care facility or institutionalized, and where the appropriate course of treatment would normally extend over a continuous period, then termination of benefits may be coterminous with the contract.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70.07 STANDARDS FOR SUBSCRIBER CONTRACTS.

- (1) Federal or state agency and health maintenance organization subscriber contracts shall include all elements contained in this section.
 - (a) Definitions;
 - (b) Effective date and term of contract;
 - (c) Space for rate to be charged;
 - (d) Mode of payment (monthly, quarterly, etc. with provision for change of mode if applicable);
 - (e) Eligibility Requirements for enrollment, including waiting periods for receiving services and any other restrictions;
 - (f) Grace period for late payment;
 - (g) Co-payment features, if any;
 - (h) Renewal, re-enrollment, termination, cancellation and disenrollment conditions;
 - (i) Services to be furnished and how the medical personnel will be made available;
 - (j) The contract, certificate, or handbook shall state where and in what manner the health care services may be obtained;
 - (k) Factors pertaining to pre-existing conditions, if applicable;
 - (l) All limitations, exclusions and exceptions, limitations on length of stay, and all other qualifying or limiting features which shall state coverage for pre-existing conditions cannot be excluded longer than two years;
 - (m) Provisions regarding in and out of area emergencies, which include a definition of emergency, if applicable;
 - (n) Provisions for adding new family members including newborn and adopted children;

- (o) Subscriber grievance procedures, formal and informal;
 - (p) Any other factors necessary for complete understanding of what is covered and what is excluded by the contract;
 - (q) Provisions relating to coordination of benefits if applicable;
 - (r) Provisions relating to subrogation or assignment of benefits, if applicable.
- (2) Group master contracts with state or federal agencies shall contain complete information as above, but a certificate or member handbook may be issued to the individual members of the group in lieu of the group master contract.
 - (3) Health maintenance organization contracts shall contain the entire agreement between the PLHSO and the health maintenance organization.
 - (45) All contracts, certificates, and member handbooks shall be clear and legible. All limitations, exclusions, and exceptions shall be grouped together, with captions in boldfaced type, and shall be printed with at least the same prominence as provisions which describe the benefits.
 - (56) Contracts that contain limitations, exclusions, and/or exceptions cannot restrict those health care services that are commonly provided in the covered limited health service and which subscribers or enrollees might reasonably require to maintain good health, or create provisions which are unfair, inequitable, or contrary to the public policy of this state or encourage misrepresentation.

Authority: *Public Acts 2000, Chapter 948, Section 53.*

0780-1-70-.08 CERTIFICATE AND MEMBER HANDBOOK STANDARDS.

When certificates or member handbooks are given to the subscriber or enrollee, the certificate or member handbook shall contain a description of the following:

- (1) Definition;
- (2) Eligibility requirements for enrollment, including waiting periods for receiving services and any other limitations;
- (3) Health care services to be provided;
- (4) Renewal, re-enrollment, termination, cancellation, and disenrollment conditions;
- (5) Provisions for adding new family members;
- (6) Benefits for newborn and adopted children;
- (7) Grace period;
- (8) Limitations, exceptions, or exclusions, such as waiting periods, specific conditions not covered, and limitations on length of stay and all other qualifying or limiting features;
- (9) Provisions relating to pre-existing conditions, if applicable; NOTE: Pre-existing conditions cannot be excluded for longer than two years;

- (10) Provisions relating to coordination of benefits;
- (11) Provisions relating to subrogation;
- (12) Conversion and extension of benefits privileges;
- (13) Subscriber grievance procedures, formal and informal; and
- (14) Any applicable co-payments.

Authority: *Public Acts 2000, Chapter 948, Section 53.*

0780-1-70-.09 COMPLETION OF SERVICE OR TREATMENT.

Every contract between a PLHSO and a provider of limited health services shall contain a clause whereby, upon termination of the contract by either party or upon expiration thereof, the provider is obligated to complete any procedure which he has undertaken upon any subscriber or enrollee, subject to a maximum 90-day limit. This shall apply to acute care procedures only, and shall not include non-acute continuing care which would require continuing periodic treatment.

Authority: *Public Acts 2000, Chapter 948, Section 53.*

0780-1-70-.10 REASONS FOR CANCELLATION OF ELIGIBILITY OF A SUBSCRIBER MEMBER.

- (1) Reasons for Cancellation of Eligibility of a Subscriber/Enrollee Member in a Title XIX Plan are established by the State Title XIX agency and/or the the federal government.
- (2) For non-Title XIX plans, upon 45 days notice, a PLHSO may cancel or terminate the coverage of a subscriber for the following reasons:
 - (a) The PLHSO may disenroll a subscriber for cause if the subscriber's behavior is disruptive, unruly, abusive, unlawful, fraudulent, or uncooperative to the extent that the subscriber's continuing participation in the PLHSO seriously impairs the PLHSO's ability to provide services to either the subscriber or other subscribers. The PLHSO may also cancel or terminate the coverage of a subscriber for the other reasons enumerated in Public Acts 2000, Chapter 948, Section 23. Prior to disenrolling a member, the following are required:
 1. An effort to resolve the problem. The PLHSO shall make a reasonable effort to resolve the problem presented by the subscriber, including the use or attempted use of subscriber grievance procedures.
 2. Consideration of extenuating circumstances. The PLHSO should ascertain that the subscriber's behavior is not related to the use of medical services or mental illness to the extent possible.
 3. Documentation. The PLHSO shall document the problems, efforts, and medical conditions as described in this rule chapter.
 - (b) The PLHSO may provide that termination of eligibility will result if:

1. The subscriber leaves the geographical service area of the PLHSO with the intent to relocate or establish a new residence on a permanent basis outside of the PLHSO's geographic service area;
2. A dependent of the subscriber reaches the limiting age under the PLHSO contract, provided that the termination shall only apply to coverage of the dependent.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.11 CANCELLATION OF SUBSCRIBER CONTRACTS.

- (1) If the subscriber group contract with a state or federal agency is not renewed due to claim experience, the subscriber group shall be entitled to receive the loss experience of the group. If requested by a state or federal agency, a detailed claim experience record may be provided at a reasonable expense. The record shall maintain subscriber confidentiality.
- (2) Any subscriber contract which is terminated or cancelled in accordance with Section 23, Public Acts 2000, Chapter 948, must identify clearly the reason(s) in writing to the subscriber.

Authority: Public Acts 2000, Chapter 0948, Section 53.

0780-1-70-.12 PRIMARY CARE PERSON.

- (1) Upon joining a PLHSO, where required by the plan, every subscriber or enrollee shall select or be assigned to a primary care person who is properly licensed and has contracted with or is employed by a PLHSO. If this is not appropriate for the limited health service offered by the PLHSO, then the subscriber shall be advised in the subscriber or enrollee handbook as to how to obtain an appropriate provider when in need of limited health services.
- (2) The PLHSO may develop and implement a quality assurance program applicable to the services provided.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.13 FILING, APPROVAL OF PREPAID LIMITED HEALTH SERVICES CONTRACT AND RELATED FORMS.

- (1) Every group or individual subscriber contract and every rider, endorsement, certificate, application, or other form to be used or issued in connection with any subscriber contract shall be filed by the PLHSO for approval by the Department pursuant to the criteria in Public Acts 2000, Chapter 948, Sections 12 and 14.
- (2) Every form required to be filed by the PLHSO shall be identified by a unique form number, placed in the lower left hand corner of each form.
- (3) All other PLHSOs shall submit contract filings to the Life and Health Actuarial Section, Insurance Division, Department of Commerce and Insurance, 4th Floor, Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.14 RATES.

- (1) Before charging premiums to health maintenance organizations, a PLHSO shall file the rating methodology by which those premiums were determined with the Department. The Department must approve the methodologies and premium rates before use. Filings of rating methodologies shall provide adequate information, so that the Department, in accordance with generally accepted actuarial principles as applied to Prepaid Limited Health Service Organizations, may verify that the rating methodology does not produce inadequate, excessive, or unfairly discriminatory premiums. The Department will consider the limited services provided, the method in which services are provided, and the method of provider payment to determine whether a rate is in compliance.
- (2) All rate classifications should be clearly identified, and the formulas and/or methods of calculating premiums adequately described.
- (3) An actuarial memorandum shall be provided for each new product filing, rate revision or justification of existing rates. The pricing assumptions shall reflect organizational experience to the degree credible and industry experience where organizational experience is not credible, available or appropriate. All such items shall be actuarially justified by supporting data. In reviewing these assumptions, the department will use, as an initial point of reference, comparisons of the assumptions with those from similar products of the same organization, similar products of other organizations and independent studies. The memorandum must contain the following items:
 - (a) Morbidity. This section shall describe the morbidity basis for the plan, including the source or sources used. The relationship between the morbidity assumptions and the benefits provided by the contract must be clearly demonstrated.
 - (b) Expenses. This section shall include a description of any expense assumptions used, including, but not limited to, per policy and percentage of premium expenses for acquisition, maintenance, commissions and state premium taxes.
 - (c) Contingency and Risk Margins. This section shall describe the margins anticipated for the contract at the time of the filing.
- (4) To determine whether premium rates are excessive, the Department shall consider all items presented in the actuarial memorandum. In addition, significant attention shall be paid to the results provided in the organization's financial reports made with the Department.
- (5) Rates are inadequate if the anticipated or actual revenues derived from the rating structure plus investment income are not at least equal to the anticipated or actual costs of benefits provided during the period for which the rates are to be effective plus the contract's expenses. For this analysis, investment income shall not exceed 3% of total projected revenues.
- (6) Premiums are unfairly discriminatory if the benefit or expense portion of the premium is inadequate or excessive for any subgroup of risks.
- (7) Rate filings shall be signed by a qualified actuary, who shall be a member of either the Society of Actuaries or the American Academy of Actuaries, and who is experienced in the development of rating methodologies for PLHSOs, or a qualified employee. Such rate filings shall include a certification that:
 - (a) The rates are neither inadequate nor excessive nor unfairly discriminatory;
 - (b) The rates are appropriate for the classes of risks for which they have been computed.

0780-1-70-.15 STANDARDS FOR MARKETING.

All sales people or representatives of the PLHSO engaged in soliciting health maintenance organizations or state or federal agencies are bound by the provisions of Tennessee Code Annotated Title 56, Chapter 8, Part One. The PLHSO is initially, and continues to be, as long as they hold a Certificate of Authority, responsible for the acts of its representatives in soliciting health maintenance organizations or state or federal agencies.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.16 FORM AND CONTENT OF ADVERTISEMENTS AND MARKETING MATERIALS.

- (1) Advertising must be truthful and not misleading in fact or implication. Words or phrases shall be clear and understandable without reliance upon technical terminology.
- (2) Testimonials or Endorsements by Third Parties.
 - (a) If the person making a testimonial, an endorsement, or an appraisal has a financial interest in the PLHSO or in a related entity, an affiliate or a management company as a stockholder, director, officer, employee, compensated party, or otherwise, such fact shall be disclosed in the advertisement.
- (3) Use of Statistics.
 - (a) An advertisement relating to the dollar amounts of claims paid, the number of subscribers, or similar statistical information relating to any PLHSO or contract shall not use irrelevant facts, and shall not be used unless it accurately reflects all of the relevant facts. Such an advertisement shall not imply that such statistics are derived from the contract advertised unless such is the fact. If the statistics are applicable to other contracts or plans the advertisement shall specifically so state.
 - (b) An advertisement shall not represent or imply that claim settlements or coverages by the PLHSO are more liberal or generous, or will be more favorable than the actual terms of the contract.
 - (c) The source of any statistics used in an advertisement shall be identified in the advertisement.
- (4) Disparaging Comparisons and Statements.
 - (a) Advertising and marketing materials shall not directly or indirectly make false comparisons of contracts or benefits of other PLHSOs or insurers, and shall not unfairly disparage competitors, their contracts, policies, services, or business methods, and shall not unfairly disparage competing methods or marketing PLHSO products or insurance.
- (5) Geographical Licensing and Status of PLHSO.
 - (a) An advertisement or marketing material which is likely to be seen or heard beyond the limits of the geographical service area in which the PLHSO is licensed shall not imply licensing beyond those limits.
 - (b) An advertisement or marketing material shall not create the impression directly or indirectly that the PLHSO, its financial condition or status, the payment of its claims, the merits, desirability, or advisability of its contract forms, or the PLHSO's coverage plans are endorsed by any local government agency, any division or agency of this State or of the United States Government, unless the local government, state or federal agency specifically authorizes such in writing.

- (6) Identity of PLHSO.
 - (a) All advertisements and marketing materials must contain the full name of the PLHSO as filed with the Department and as shown on the PLHSO's Certificate of Authority.
 - (b) The full name and address of the PLHSO shall be identified and made clear in all of its printed advertisements or marketing materials. An advertisement and marketing material shall not use a trade name, any PLHSO designation, the name of the parent company of the PLHSO, the name of a particular division of the PLHSO, a service mark, slogan, symbol, or other device that misleads or deceives as to the true identity of the PLHSO.
 - (c) No advertisement or marketing material shall use any combination of words, symbols, or physical materials which by their contents, phraseology, shape, color, or other characteristics are so similar to materials used by agencies of the federal government or of this State, or which would tend to confuse or mislead prospective subscribers into believing that the solicitation is in some manner connected with an agency of the municipal, state, or federal government, unless authorized in writing by the municipal, state or federal agency.
- (7) Statements About a PLHSO.
 - (a) An advertisement or marketing material shall not contain statements which are untrue, or by implication misleading, with respect to the assets, corporate structure, financial standing, age, or relative position of the PLHSO in the Prepaid Limited Health Service Organization type insurance business.
 - (b) An advertisement shall not refer to a holding company or subsidiary of a PLHSO unless it fully discloses that it is a separate entity and not responsible for the PLHSO's financial condition or contractual obligations. However, if the holding company or subsidiary of the PLHSO is a qualified, approved guaranteeing organization for the PLHSO, this may be stated.
- (8) Exceptions, Reductions, and Limitations.
 - (a) When an advertisement or other marketing item states a dollar amount, or a period of time for which any benefit, or the condition for which such benefit is covered, the advertisement or marketing item shall also state the existence of exceptions, reductions, and limitations affecting the basic provisions of the contract without which reference the advertisement might have the capacity or tendency to mislead or deceive.
- (9) Deceptive Words, Phrases, or Illustrations Prohibited.
 - (a) Words, phrases, or illustrations shall not be used in a manner through which they mislead or have the capacity or tendency to deceive or mislead.
 - (b) No advertising or marketing shall omit or give false information, contain untrue, deceptive, or misleading words, phrases, statements, references, or illustrations as to the contract benefits, health conditions covered, or premium rate.
 - (c) An advertisement or marketing item shall not contain descriptions of a contract limitation, exception, or reduction, worded in a positive manner to imply that it is a benefit. Words and phrases used in an advertisement to describe such contract limitations, exceptions, and reductions shall fairly and accurately describe the negative features of such limitations, exceptions, and reductions of the contract offered.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.17 ADVERTISEMENT AND MARKETING ENFORCEMENT PROCEDURES.

Each PLHSO shall maintain at its home or principal office a complete file containing every printed, published, or prepared advertisement or marketing item of its health benefit coverage in this State, with a notation attached to each such advertisement or marketing item indicating the manner and extent of distribution and the form number of any policy advertised or marketed. Each piece of advertising or marketing item shall have a unique number or designation which will readily identify it from all other advertising or marketing. Such file shall be subject to inspection by the Department of Commerce and Insurance. All such advertisements and marketing items shall be maintained in said file for a period of at least five years.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.18 TIMELY CLAIM PAYMENTS.

(1) For PLHSOs that do not participate in the state Title XIX Program the following applies:

(a) Definitions

1. "Clean claim" means a claim received by a PLHSO for adjudication, and which requires no further information, adjustment or alteration by the provider of the services in order to be processed and paid by the PLHSO. A claim is clean if it has no defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment from being made on the claim.

A clean claim does not include a duplicate claim. A duplicate claim means an original claim and its duplicate when the duplicate is filed within thirty (30) days of the original claim.

A clean claim does not include any claim submitted more than ninety (90) days after the date of service.

The definition of clean claim includes resubmitted paper claims with previously identified deficiencies corrected.

2. "Pay" means that the health insurance entity shall either send the provider cash or a cash equivalent in full satisfaction of the allowed portion of the claim, or give the provider a credit against any outstanding balance owed by that provider to the PLHSO. Payment shall occur on the date when the cash, cash equivalent or notice of credit is mailed or otherwise sent to the provider.
3. "Submitted" means that the provider either mails or otherwise sends a claim to the PLHSO. Submission shall occur on the date the claim is mailed or otherwise sent to the PLHSO.

(b) Paper Claims. Not later than thirty (30) calendar days after the date that a PLHSO actually receives a claim submitted on paper from a provider, a PLHSO shall:

1. if the claim is clean, pay the total covered amount of the claim;
2. pay the portion of the claim that is clean and not in dispute and notify the provider in writing why the remaining portion of the claim will not be paid; or

3. notify the provider in writing of all reasons why the claim is not clean and will not be paid and what substantiating documentation and information is required to adjudicate the claim as clean.
- (c) Electronic Claims. Not later than twenty-one (21) calendar days after receiving a claim by electronic submission, a PLHSO shall:
1. if the claim is clean, pay the total covered amount of the claim;
 2. pay the portion of the claim that is clean and not in dispute and notify the provider why the remaining portion of the claim will not be paid; or
 3. notify the provider of the reason why the claim is not clean and will not be paid and what substantiating documentation or information is required to adjudicate the claim.
- (d) Resubmission of Paper Claims. No paper claim may be denied upon resubmission for lack of substantiating documentation or information that has been previously provided by the health care provider.
- (e) Claims Submission Information. PLHSOs shall timely provide contracted providers with all necessary information to properly submit a claim.
- (f) Interest. Any PLHSO that does not comply with subdivision (b)(1) shall pay one percent (1.0%) interest per month, accruing from the day after the payment was due, on that amount of the claim that remains unpaid.
- (2) For PLHSOs that participate in the state Title XIX Program, the timely payment standards are set out at T.C.A. 56-32-226(b).

Authority: Public Acts 2000, Chapter 948, Section 53; Chapter 908, and T.C.A. 56-32-226(b).

0780-1-70-.19 EXCESS LOSS INSURANCE.

PLHSOs may obtain (excess loss insurance) in order to limit the PLHSO's financial risk. All excess loss contracts shall be filed with and approved by the Department. In addition to the regular insurance filing of any (excess loss insurance) contract, if the (excess loss insurance) contract contains insolvency protection for the PLHSO, the contract shall be submitted for prior approval.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.20 ANNUAL AND QUARTERLY REPORTS.

- (1) Any and all reports required under Public Acts 2000, Chapter 948, Section 34, which are filed with the Department, shall be prepared in accordance with the National Association of Insurance Commissioners Statutory Accounting Practices and Procedures Manual in effect for the period covered by the report.
- (2) Each PLHSO shall furnish to the Department an annual report at the time specified in Public Acts 2000, Chapter 948, Section 34, on forms prescribed in that section. The completed annual statement form shall be accompanied by the items required in Public Acts 2000, Chapter 948, Section 34, as well as an organization chart of the PLHSO identifying

ownership and affiliated parent and subsidiary companies, and shall be submitted within three months after the end of fiscal year.

- (3) Each PLHSO or applicant shall notify the Department of any legal proceeding, excluding traffic infractions, involving any person subject to providing biographical information. This shall include, but not be limited to, any and all criminal, civil, and administrative actions entered by any state or federal entity and to include pending but yet unresolved actions.
- (4) Any PLHSO which has operations in states other than Tennessee shall file its annual report based upon its total operations. In addition, the PLHSO shall file a separate schedule of all financial statements specified in the annual report form, including the audited financial statement, which covers the Tennessee operations only.
- (5) If a PLHSO constitutes a portion of or a division of a certificated entity, the entity shall file its annual report based upon its total operations. In addition, the entity shall file a separate schedule of all financial statements specified in the annual report form, including the audited financial statement, which covers the PLHSO operation only.
- (6) The annual report shall include disclosure of material transactions between the PLHSO and a related party. The disclosure shall include:
 - (a) The nature of the relationship(s) involved.
 - (b) A description of the transaction, including transactions to which no amounts or nominal amounts were ascribed, for each of the periods for which income statements are presented, and such other information deemed necessary to an understanding of the effects of the transaction on the financial statements.
 - (c) The dollar amounts of transactions for each of the periods for which income statements are presented and the effects of any change in the method of establishing the terms from that used in the preceding period.
 - (d) Amounts due from or to related parties as of the date of each balance sheet presented and, if not otherwise apparent, the terms and manner of settlement.
- (7) Quarterly reports shall be submitted to the Department within forty-five (45) days following the end of each operating quarter. The initial operating quarter commences after the issuance of a Certificate of Authority. Quarterly reports shall be submitted in accordance with Public Acts 2000, Chapter 948, Section 34, in the form set forth therein, and shall contain the following supplemental schedules:
 - (a) A complete identification and dollar value breakdown of all short term investments with individual balances greater than 10% of total short term investments;
 - (b) A complete list of all debtors with account balances greater than 10% of total prepaid expenses;
 - (c) An aging analysis on all premium receivables;
 - (d) A complete aging, identification, and dollar value breakdown of all prepaid expenses with individual balances greater than 10% of total prepaid expenses;
 - (e) A complete identification and dollar value breakdown of all restricted assets and restricted funds with individual balances greater than 10% of the respective account balance total;

- (f) A complete identification and dollar value breakdown of all long term investments with individual balances greater than 10% of total long term investments;
- (g) A complete identification and dollar value breakdown of other assets with individual balances greater than 10% of total other assets;
- (h) All surplus notes shall be identified by a complete identification and dollar value breakdown and shall be accompanied by a copy of the surplus note agreement. Each PLHSO is required to submit four (4) quarterly reports in addition to an annual report each fiscal year.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.21 SUBSCRIBER/ENROLLEE GRIEVANCE PROCEDURE.

Grievance procedures for non-Title XIX programs shall comply with the provision of T.C.A. 56-32-210, as amended. Grievance and appeal procedures for Title XIX programs shall comply with applicable federal and state law.

Authority: Public Acts, Chapter 948, Section 53.

0780-1-70-.22 FEES.

Checks for the original application filing or amendments thereto, for filing of each annual report, and for any other fees collected pursuant to these rules or Public Acts 2000, Chapter 948 shall be made payable to the "Tennessee Department of Commerce and Insurance."

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.23 SURPLUS NOTES.

Funds borrowed by PLHSOs will be considered surplus notes if such borrowed funds result from a written instrument which includes the following:

- (1) The effective date, amount, interest, and parties involved are clearly set forth,
- (2) The principal sum and/or any interest accrued thereon are subject to and subordinate to all other liabilities of the PLHSO, and upon dissolution or liquidation, no payment of any kind shall be made until all other liabilities of the PLHSO have been paid or otherwise discharged;
- (3) The instrument states that the parties agree that all claims of subscribers and general creditors of the organization have been paid or otherwise discharged prior to any payment of interest or repayment of principal, unless specifically approved by the Department;
- (4) The instrument is executed by both parties and a certified copy of the instrument is filed with and approved by the Department of Insurance;
- (5) The parties agree not to modify, terminate, or cancel the surplus note without the prior approval of the Department.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.24 CHANGE OF NAME.

No company name other than that certified by the Department shall be used by the PLHSO. The name of the PLHSO shall not be changed without prior approval of the Department. The approval process is as follows:

- (1) The PLHSO shall file a request with the Department to change the PLHSO's name. The request shall include a plan by which current subscribers and providers will be notified of the name change. This plan shall include a copy of any proposed notice to be sent to subscribers and providers.
- (2) Once the Department tentatively approves the name change, the PLHSO shall submit:
 - (a) A Board Resolution from the PLHSO affirming the decision to change the PLHSO's name;
 - (b) Amendments to the Articles of Incorporation and By-Laws of the PLHSO affirming the name change;
 - (c) Certification from the Secretary of State Office that the name has been changed, and that the change has been filed with the Secretary of State's Office;
 - (d) Documentation showing that the name change has been made on all insurance policies covering the PLHSO; and
 - (e) Documentation showing that all new subscriber contracts will include the new name of the PLHSO.
- (3) After the Department receives the items listed in (2) above and the fee specified in Public Acts 2000, Chapter 948, Section 45, the Department shall grant final approval by means of issuing an amended Certificate of Authority.

Authority: Public Acts 2000, Chapter 948, Section 53.

0780-1-70-.25 CHANGE OF OWNERSHIP.

Change of ownership shall comply with Public Acts 2000, Chapter 948, Section 51.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of October, 2000. (10-25)

**DEPARTMENT OF COMMERCE AND INSURANCE - 0780
DIVISION OF INSURANCE**

There will be a hearing before the Department of Commerce and Insurance to consider the promulgation of proposed rules respecting the licensure, reporting requirements, practices, and the department's examination and investigation of life settlement providers, life settlement brokers, and life settlement representatives, pursuant to Public Acts 2000, Chapter No. 699, the Life Settlements Act. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated §4-5-204, and will take place in Conference Room A on the Fifth (5th) Floor of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee at Nine (9) o'clock in the morning, Central Standard Time on the 18th day of December, 2000.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Department of Commerce and Insurance to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator, Ms. Verna Norris, Department of Commerce and Insurance, Davy Crockett Tower, Fifth Floor, 500 James Robertson Parkway, Nashville, Tennessee 37243 and (615) 741-0481.

SUMMARY OF PROPOSED RULES

**0780-1-71
LIFE SETTLEMENTS**

The following subjects will be discussed during the rulemaking hearing:

0780-1-71-.01	AUTHORITY
0780-1-71-.02	DEFINITIONS
0780-1-71-.03	LICENSE REQUIREMENTS
0780-1-71-.04	LICENSE REVOCATION GROUNDS
0780-1-71-.05	STANDARDS FOR EVALUATION OF REASONABLE PAYMENTS
0780-1-71-.06	REPORTING REQUIREMENTS
0780-1-71-.07	EXAMINATIONS AND INVESTIGATIONS
0780-1-71-.08	GENERAL RULES
0780-1-71-.09	DISCLOSURE
0780-1-71-.10	PROHIBITED PRACTICES
0780-1-71-.11	INSURANCE COMPANY PRACTICES
APPENDIX A	VERIFICATION OF COVERAGE FOR INDIVIDUAL POLICIES
APPENDIX B	VERIFICATION OF COVERAGE FOR GROUP LIFE INSURANCE BENEFITS

For a copy of the entire text of this notice of rulemaking hearing, contact: Maliaka Bass EssamelDin, Staff Attorney, Department of Commerce and Insurance, William R. Snodgrass Tower, Twenty-Fifth Floor, 312 Eighth Avenue, North, Nashville, Tennessee 37243 and (615) 741-2199.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on the 31st day of October, 2000.
(10-26)

BOARD OF DIETITIAN/NUTRITIONIST EXAMINERS - 0470

There will be a hearing before the Tennessee Board of Dietitian/Nutritionist Examiners to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-25-107. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 28th day of December, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENT

Rule 0470-1-.09, Renewal License, is amended by deleting subparagraph (2) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (b) shall read:

- (2) (b) Any licensee who is sent by certified mail notice of administrative revocation may, within sixty (60) days of the expiration date of the license, execute and file in the Board's administrative office an affidavit of retirement pursuant to Rule 0470-1-.11 which will effectively retire the license as of the date the affidavit of retirement was received by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-25-107, 63-25-112, and 63-25-113.

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of October, 2000. (10-04)

**TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF AIR POLLUTION CONTROL**

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 8th Floor Conference Room of the L & C Tower, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 18th day of December, 2000.

Written comments will be included in the hearing records if received by the close of business December 18, 2000, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (December 18, 2000) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298)

If you have any questions about the origination of this rule, you may contact Mr. John D. Patton at 1-800-511-7991. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 8th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

SUBSTANCE OF PROPOSED RULE

**CHAPTER 1200-3-27
NITROGEN OXIDES**

AMENDMENT

1200-3-27-.04 STANDARDS FOR CEMENT KILNS

- (1) The requirements of this rule apply only to kilns with process rates of at least the following:
 - (a) Long dry kilns—————12 tons per hour (TPH);
 - (b) Long wet kilns—————10 TPH;
 - (c) Preheater kilns—————16 TPH; and
 - (d) Precalciner and preheater/precalciner kilns—————22 TPH.
- (2) For the purpose of this rule, definitions apply as follow:

- (a) "Clinker" means the product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.
 - (b) "Long dry kiln" means a kiln 14 feet or larger in diameter, 400 feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is dry.
 - (c) "Long wet kiln" means a kiln 14 feet or larger in diameter, 400 feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is a slurry.
 - (d) "Low-NOx burners" means combustion equipment designed to reduce flame turbulence, delay fuel/air mixing, and establish fuel-rich zones for initial combustion.
 - (e) "Mid-kiln system firing" means secondary firing in kiln systems by injecting fuel at an intermediate point in the kiln system using a specially designed fuel injection mechanism for the purpose of decreasing nitrogen oxide (NO_x) emissions through:
 - 1. Burning part of the fuel at a lower temperature; and
 - 2. Reducing conditions at the fuel injection point that may destroy some of the NO_x formed upstream in the kiln burning zone.
 - (f) "Portland cement" means a hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one or more of the forms of calcium sulfate as an interground addition.
 - (g) "Portland cement kiln" means a system, including any solid, gaseous or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.
 - (h) "Precalciner kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers and utilizes a second burner to calcine material in a separate vessel attached to the preheater prior to the final fusion in a kiln which forms clinker.
 - (i) "Preheater kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers prior to the final fusion in a kiln which forms clinker.
- (3) After May 31, 2004, the owner or operator of any Portland cement kiln subject to this rule shall not operate the kiln during May 1 through September 30 unless the kiln has installed and operates during May 1 to September 30 with at least one of the following:
- (a) Low-NOx burners;
 - (b) Mid-kiln system firing;
 - (c) Alternative control techniques approved by the Technical Secretary and the EPA as achieving at least the same emissions decreases as with low-NOx burners or mid-kiln system firing; or
 - (d) Reasonably available control technology approved by the Technical Secretary and the EPA.

- (4) The owner or operator subject to the requirements of Paragraph (3) of this rule shall comply with the requirements as follow:
 - (a) By May 31, 2004, submit to the Technical Secretary the identification number and type of each kiln subject to this rule, the name and address of the facility where the kiln is located, and the name and telephone number of the person responsible for demonstrating compliance with Paragraph (3); and
 - (b) By October 31, 2004, submit to the Technical Secretary a report documenting for that kiln the total NO_x emissions from May 31, 2004, through September 30, 2004, and beginning in 2005 submit by October 31 of each year to the Technical Secretary a report documenting NO_x emissions from May 1 through September 30 of that year.
- (5) By May 31, 2004, the owner or operator of a kiln subject to this rule shall submit to the Technical Secretary a demonstration of compliance with therequirements of Paragraph (3). If compliance is being achieved by use of prescribed equipment, for example low-NO_x burners or mid-kiln system firing, the demonstration of compliance shall be written certification to the Technical Secretary that this equipment is installed and is in use. If compliance is being achieved by use of alternative control techniques approved by the Technical Secretary and the EPA, demonstration of compliance shall as specified by the Technical Secretary and the EPA. In the case of compliance proposed to be achieved by use of alternative control techniques, a plan for compliance demonstration shall be submitted to the Technical Secretary by May 1, 2003. Upon receipt the Technical Secretary shall immediately forward a copy of the plan to the EPA. By November 1, 2003, the Technical Secretary shall specify in writing to theowner or operator of the kiln how compliance shall be demonstrated, this specification consistent with methods and requirements specified by the EPA following its review of the submitted plan.
- (6) By December 31 of each year, beginning in 2004, the owner or operator of a kiln subject to this rule shall submit to the Technical Secretary a written certification that compliance with the requirements of Paragraph (3) has been maintained during that year's five-month period May 1 through September 30, except for 2004 when compliance is to be maintained from May 31 through September 30. The methods of determining that this compliance has been maintained shall be as specified on the major source operating permit issued for the facility at which the kiln is operated.
- (7) Beginning May 31, 2004, the owner or operator of a kiln subject to this rule shall maintain records for May 31 through September 30 of that year, and in subsequent years for May 1 through September 30, that include the data as follow:
 - (a) The date, time, and duration of any startup, shutdown, or malfunction in the operation of the cement kiln or its emissions monitoring equipment or of any scheduled maintenance activity that affects NO_x emissions or emissions monitoring;
 - (b) The results of any compliance testing; and
 - (c) Other data required by permit to be maintained.
- (8) The records listed in Paragraph (7) of this rule shall be retained on-site for a minimum of 2 years following the calendar year for which they are made and shall be made available to the Technical Secretary for his review upon request.
- (9) The requirements of this rule shall not apply to periods of scheduled maintenance activities that affect NO_x emissions.

- (10) The requirements of this rule shall not apply to periods of malfunctions, startups, and shutdowns. These periods are subject to the requirements of Chapter 1200-3-20.

Authority: *T.C.A. §§68-201-105-and 4-5-201 et. seq.*

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This notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of October, 2000. (10-23)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF AIR POLLUTION CONTROL

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 8th Floor Conference Room of the L & C Tower, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 18 th day of December, 2000.

Written comments will be included in the hearing records if received by the close of business December 18, 2000, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (December 18, 2000) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298)

If you have any questions about the origination of this rule, you may contact Mr. John D. Patton at 1-800-511-7991. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 8th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

SUMMARY OF PROPOSED CHANGES**CHAPTER 1200-3-27
NITROGEN OXIDES****AMENDMENT**

Rule 1200-3-27-.06 NO_x BUDGET TRADING PROGRAM FOR STATE IMPLEMENTATION PLANS (40 CFR 96) established for the State of Tennessee, nitrogen oxide (NO_x) allowances in tons for fossil fuel fired utility boilers (>25mw) and industrial boilers with a heat input greater than 250 mmBtu per hour. These allowances only apply in the five (5) month control period from May 1 through September 30 beginning in the year 2003 and all years thereafter. This rule is necessary to meet the EPA requirement that a state adopt Part 96 NO_x Budget Trading Program for State Implementation Plans, or EPA will apply such a rule through a Federal Implementation Plan. The rule provides for NO_x banking and trading to minimize the cost of this rule. EPA promulgated this rule to address interstate transport of ozone and its precursors.

This notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of October, 2000.
(10-24)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF RADIOLOGICAL HEALTH**

There will be a hearing before the Tennessee Department of Environment and Conservation to consider the promulgation of rules pursuant to T.C.A. 68-202-101 *et seq.*, and 68-202-501 *et seq.* The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the 17th Floor Conference Room of the L & C Tower located at 401 Church Street, Nashville, Tennessee at 1:00 p.m. (CST), on the 4th day of January, 2001.

Individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be made in person, by writing, telephone or other means and should be made no less than ten (10) days prior to January 4, 2001, or ten (10) days prior to the date such party intends to review such filings, to allow time for the Department to determine how it may reasonably provide such aids or services. Contact the Tennessee Department of Environment and Conservation, ADA Coordinator, Isaac Okoreeh-Baah, 401 Church Street, L & C Annex, Seventh Floor; Nashville, TN 37243; (615) 532-0009 or 1-888-867-2757. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

For a copy of this notice of rulemaking hearing, contact: Barbara A. Davis; Division of Radiological Health, L & C Annex, Third Floor; 401 Church Street; Nashville, TN 37243-1532, 615-532-0364.

SUBSTANCE OF PROPOSED RULE

NEW RULE

TABLE OF CONTENTS

1200-2-10-.34 Supplemental Fees for Calendar Year 2001.

1200-2-10-.34 SUPPLEMENTAL FEES FOR CALENDAR YEAR 2001.

- (1) Purpose. Adequate funds are required to facilitate the proper administration of The Radiological Health Service Act and The Medical Radiation Inspection Safety Act. Failure to properly administer these acts threatens the health and safety of the citizens of the state. Operating revenue for the administration of these acts is collected on a calendar year basis. Projected revenue needs of the Division in 2001 cannot be met by current registration and licensing fees. Rulemaking to increase 2001 fees cannot be completed prior to the first assessment date, January 1, 2001. Therefore, one time supplemental fees are hereby established to provide the Division with additional revenue during Calendar Year 2001.
- (2) Supplemental Fees Schedules.
 - (a) In addition to the fees established in paragraph (3) of Rule 1200-2-10-.24 Registration, persons subject to registration anytime during Calendar Year 2001 shall pay a supplemental fee to be determined according to Schedule I of this paragraph:

SCHEDULE I

Class I Equipment_____	\$ 10.00 per tube
Class II Equipment_____	\$ 40.00 per tube
Class III Equipment_____	\$ 20.00 per tube
Class IV Equipment_____	\$ 50.00 per tube
Class V Equipment_____	\$ 200.00 per tube
Class VI Equipment_____	\$ 300.00 per tube
Class VII Equipment_____	\$ 500.00 per tube

† plus, for each accelerator initial review, a supplemental fee of \$ 125.00 per maximum nominal rated MeV (total supplemental initial review fee not to exceed \$ 50,000.00)

A person providing inspection services under paragraph 1200-2-10-.27(4), except as provided by paragraph 1200-2-10-.24(3)(c)_____ \$ 200.00

- (b) In addition to the fees established in paragraphs (6) through (19) of Rule 1200-2-10-.31 Fees for Licenses, persons subject to licensure anytime during Calendar Year 2001 shall pay a supplemental fee to be determined according to Schedule II of this paragraph:

Schedule II

Category GL	_____	\$ 50.00
Category 1	_____	\$ 100.00
Category 2	-----	\$200.00

Category 2d

In addition to the supplemental fee for Category 2, the operator of a disposal/processing facility shall collect and remit a supplemental fee, on items contaminated or potentially contaminated with radioactive material or on low-level radioactive waste received, of _____ \$0.005/lb

Notwithstanding the requirements of paragraph 1200-2-10-.31(8) and Rule 1200-2-10-.32, licensees with multiple sites within the state will be levied the supplemental fee only once on items moved directly from one site to another.

Category 3	_____	\$ 300.00
Category 4	_____	\$ 500.00
Category 5	_____	\$ 700.00
Category 6	_____	\$ 2,000.00
Category 7	_____	\$ 1,000.00
Category 8	_____	\$ 3,750.00
Category 9	_____	\$ 5,000.00
Category 10	_____	\$ 7,500.00
Category 11	_____	\$ 10,000.00
Category 12	_____	\$ 125,000.00
Category 13	_____	At least \$ 50.00 not greater than \$ 125,000.00

The Category 13 supplemental fee shall be determined on a case-by-case basis. The determination shall be based on an analysis of the hazard, the scope of the difficulty encountered in the review process and the specifics of the activity, following the categories established in paragraphs (6) through (19) of Rule 1200-2-10-.31.

Authority: T.C.A. §4-5-201, et seq., T.C.A. §68-202-201, et seq., T.C.A. §68-202-401, et seq. and T.C.A. §68-203-101 et seq.

OTHER INFORMATION

Oral or written comments are invited at the hearing. In addition, written comments may be submitted to Barbara A. Davis at the Division of Radiological Health, Central Office, address below, prior to or following the public hearing. However, the Division must receive such written comments in its Central Office by 4:30 p.m. CST, January 4, 2001, in order to assure consideration. Copies of draft rules are available for review in the Public Access Areas of the following Departmental Environmental Assistance Centers:

Chattanooga Environmental Assistance Center
State Office Building
540 McCallie Avenue, Suite 550
Chattanooga, TN 37402-2013
(423) 634-5745 / 1-888-891-8332

Knoxville Environmental Assistance Center
2700 Middlebrook Pike, Suite 220
Knoxville, TN 37921-5602
(865) 594-6035 / 1-888-891-8332

Memphis Environmental Assistance Center
Perimeter Park
2510 Mt Moriah Road, Suite E-645
Memphis, TN 38115-1520
(901) 368-7939 / 1-888-891-8332

Nashville Environmental Assistance Center
711 R S Gass Boulevard
Nashville, TN 37243
(615) 687-7000 / 1-888-891-8332

Copies are available for review also at the Division of Radiological Health, Central Office:
Division of Radiological Health
L & C Annex, Third Floor
401 Church Street
Nashville, TN 37243-1532
(615)532-0364

The "DRAFT" rules may be accessed for review also at the Department's World Wide Web Site located at <http://www.state.tn.us/environment.htm>

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of October, 2000. (10-20)10-19

HEALTH FACILITIES COMMISSION - 0720

There will be a hearing before the Tennessee Health Facilities Commission to consider the promulgation of amendments of rules on behalf of the Tennessee Health Facilities Commission pursuant to T.C.A. § 4—5—202 and 4—5—204, and T.C.A. § 68—11—105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4—5—204 and will take place in Room 29, of the Legislative Plaza at 9:00 A.M. —4:30 P.M. on the 18th day of December, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Tennessee Health Facilities Commission to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting (the date such party intends to review such filings), to allow time for the Commission to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Tennessee Health Facilities Commission, 7th Floor, Davy Crockett Tower Suite 760, 500 James Robertson Parkway, Nashville, Tennessee 37219, (615)741-2364.

For a copy of the entire text of this notice of rulemaking hearing contact:

Melissa Bobbitt, Tennessee Health Facilities Commission, 500 James Robertson Parkway, Suite 760, Davy Crockett Tower, Nashville, Tennessee 371219, (615)7412364.

SUBSTANCE OF PROPOSED RULE**CHAPTER 0720—1
CONDUCT OF BUSINESS****0720—1—.01 COMMUNICATIONS**

0720—1—.01 Communications is amended by deleting paragraph (1) in its entirety and substituting the following language, so that as amended the new paragraph shall read:

- (1) All documents, information, and written communications including a petition for a contested case hearing pursuant to T.C.A. § 68—11—109 which are required to be filed with the Tennessee Health Facilities Commission (hereinafter the “Commission”) must be received at the Commission’s business office located in Nashville, Tennessee, during normal business hours.

Authority: T.C.A. §§ 68—11—105(2), 68—11—106(d)(5), 4—5—202.

0720—1—.02 CONFLICTS OF INTEREST

0720—1—.02 Conflicts of interest is amended by adding a new paragraph (3) to read:

- (3) Conflict of interest includes a member or employee’s activities which may impair, or give the appearance of impairing, the ability to provide unbiased public service.

Authority: T.C.A. §§ 68—11—105 (2), 4—5—202.

0720—1—.03 STAFF AND COMMUNICATION DETERMINATIONS

0720—1—.03 Staff and Communication Determinations is amended by deleting paragraph (2) in its entirety and substituting a new paragraph (2) so that as amended the new paragraph shall read:

- (2) Informal advice. Staff members may give advice or guidance orally or in writing when requested. Such informal staff advice is the personal opinion of the staff member, and does not represent the position of the Commission or any member thereof. Such advice is not binding on the Commission and creates no precedent.

Authority: T.C.A. §§ 68—11—105(2), 68—11—106(d)(5), 4—5—202.

0720—1—.04 ACCESS TO COMMISSION RECORDS

0720—1—.04 Access to Commission Records, is amended by deleting subparagraph (2)(b) in its entirety and substituting the following language, so that as amended the new subparagraph shall read:

- (b) In no event shall anyone be allowed to take original Commission records outside of the Commission business office without the express approval of the Executive director.

Authority: T.C.A. §§ 68—11—105(2), 4—5—202, and 10—7—506

0720—1—.05 CONDUCTING COMMISSION MEETINGS

0720—1—.05 Conducting Commission Meetings is amended by deleting paragraph (2) and substituting the following language, so that as amended the new paragraph shall read:

- (2) Meetings of the Commission will be under the direction of the Chair, or in the Chair's absence or at his/her request, the Vice Chair or other designated member as determined by the Chair or the Commission.

Authority: T.C.A. §§ 68—11—105(2), 68—11—106(d)(5), and 4-5-202

**CHAPTER 0720—2
DEFINITIONS**

0720—2—.01 DEFINITIONS.

0720—2—.01 Definitions is amended by deleting subparagraph (3)(c) and substituting the following new language and is further amended by deleting paragraph (10), and substituting the following new language and is further amended by deleting paragraph (25) and is further amended by deleting paragraph (26) and substituting the following new language, so that as amended (3)(c), (10) and (26) shall read:

- (3) (c) *“Lease, loan, gift of property or facility”* in the case of a lease, loan, gift of the property or facility, the “cost” is the fair market value of the equipment.

- (10) *“Hospital projects”* as used in T.C.A. § 68—11—108(c) to determine the period of validity, is limited to hospital projects involving capital costs expenditures of \$5 million or greater.

- (25) Delete in its entirety.

- (26) “*Substantive amendment*” as used in T.C.A. § 68—11—106(d)(7) means any amendment which has the effect of changing the number of beds, owner, site, square footage, cost, a development agreement or any other direct or indirect transfer of any nature including any other elements which are reasonably considered to be integral components of the application.

0720—2—.01 Definitions is further amended by adding the following new definitions and the section is alphabetized and renumbered accordingly and shall read:

- () “*Air ambulance*” means any privately or publicly owned air vehicle that is especially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for transportation upon the airways in this state for persons who are sick, injured, wounded, otherwise incapacitated, helpless, or in need of medical care. Any change in the base site or addition of satellite sites requires a Certificate of Need.
- () “*Birthing center*” as defined in T.C.A. § 68—11—201(6).
- () “*Critical access hospital*” is as defined in T.C.A. § 68—11—106.
- () “*Development agreement*” means mortgaging, selling, leasing, subleasing or otherwise disposing of any real property in order to accomplish the purpose of the development agreement.
- () “*Fraud*” is as defined in T.C.A. § 68—11—119.
- () “*Home care organization*” as defined in T.C.A. § 68—11—102(7).
- () “*Non-residential methadone treatment facility*” as defined in the Rules of the Tennessee Department of Health Alcohol and Other Drugs of Abuse Treatment Facilities 1200—8—9—02(4).
- () “*Positron Emission Tomography*” means the PET scanner and the cyclotron; or for mobile units, the pro-rated cost of the PET scanner and the cyclotron are included in the total project cost.
- () “*Swing bed services*” means a hospital or critical access hospital participating in Medicare that will have an approval to provide post-hospital skilled nursing facility care as defined in the Code of Federal Regulations.

Authority: T.C.A. § 68—11—105(2), 4—5—202

CHAPTER 0720—3 CERTIFICATE OF NEED PROGRAM—SCOPE OF PROCEDURES

0720—3—.01 PRIVATE PROFESSIONAL PRACTICE EXEMPTION

0720—3—.01 Private Professional Practice Exemption, is amended by deleting paragraph (2) in its entirety and substituting the following language so that it shall read:

- (2) To establish an outpatient diagnostic center or any other health care institution that does not require licensure, a certificate of need is required unless the place, building, or facility is occupied exclusively as the professional practice of a medical doctor, osteopathic doctor, or dentist. In determining whether the professional practice exemption is met, the Commission may consider all relevant factors, including but not limited to, form of facility

ownership, types of service reimbursement sought and/or received, patient referral sources, advertising/marketing efforts, and whether the private practitioner retains complete responsibility for management and business control.

Authority: T.C.A. §§ 68—11—105(2), 68—11—106(b) 68—11—102, 68—11—106(a)(6), 4—5—202.

0720—3—.02 ACTIVITIES REQUIRING NOTIFICATION—MISCELLANEOUS PROVISIONS

0720—3—.02 Activities Requiring Notification-Miscellaneous Provisions is amended by deleting paragraph (5) in its entirety and substituting the following language so that it shall read:

- (5) Notice of a change of ownership occurring within two years of the date of initial licensure of a health care institution must be provided to the Commission thirty (30) days prior to the effective date as provided in Rule 0720—5—.04. For purposes of this paragraph a “change of ownership” is as defined in applicable Rules of the Board for Licensing Health Care Facilities.

Authority: T.C.A. §§ 68—11—105(2), 68—11—105(2), 68—11—106(b), 68—11—102, 68—11—106(a)(6), 4—5—202.

0720—3—.03 STANDARD PROCEDURES FOR CERTIFICATE OF NEED

0720—3—.03 Standard procedures for Certificate of Need, is amended by deleting subparagraph (2)(d) in its entirety and substituting the following language and is further amended by adding the following new language as new subparagraph (2)(e) and is further amended by deleting paragraph (3) and subparagraphs (3)(a)(b)(c)(d)(e), and is further amended by deleting subparagraph (4)(e) and subparagraphs (5)(a) and (c) and subparagraph (10)(e) and paragraph (11) in their entirety and substituting the following language, so that as amended, the new subparagraphs (2)(d) and (e), the new paragraph (3) and subparagraphs (3)(a)(b)(c)(d)(e), subparagraphs (4)(e), and subparagraphs (5)(a) and (c), and subparagraph (10)(e), and paragraph (11) shall read:

- (2) (d) Simultaneous with its filing with the Commission, the Letter of intent shall be published for one day in a newspaper of general circulation in the county where the proposed project is to be located. The Letter of Intent shall be published in the Legal notice section in a space which shall be no smaller than two (2) column by four (4) column inches long.
- (e) The published Letter of Intent must contain a statement: (1) that any health care institution wishing to oppose the application must file written notice with the Commission not later than fifteen (15) days before the Commission meeting at which the application will be heard; and (2) any other person opposing the application must file a written objection with the Tennessee Health Facilities Commission at or prior to the consideration of the application by the Tennessee Health Facilities Commission. Failure to include this statement in the publication will deem the Letter of Intent null and void.
- (3) Simultaneous Review. Those persons desiring simultaneous review for a Certificate of Need for which a Letter of Intent has been filed shall file a Letter of Intent with the Commission and the original applicant, and publish the Letter of Intent simultaneously in a newspaper of general circulation, as those terms are defined in sub-paragraph (2)(d), in the same county as the original applicant within ten (10) days after publication by the original applicant. The Executive Director or his/her designee will determine whether application(s) are to be reviewed simultaneously.
 - (a) The applicant seeking simultaneous review shall, at the time the Letter of Intent is filed with the Commission also file a verified statement certifying it has complied with the procedural requirements for simultaneous review and evidence that the Notice was received by the Commission business office and the original applicant within ten (10) days after publication by the original application.

- (b) In addition to the procedural requirements, the following factors may be considered by the Executive Director in determining whether the applications are to be reviewed as appropriate for simultaneous review.
 - (c) If, at the time an application is filed for simultaneous review there is already another application filed for simultaneous review against the original application, the second application seeking simultaneous review may be simultaneously reviewed against both the original application and the other application seeking simultaneous review.
 - (d) The order in which applications filed for simultaneous review will be placed on the agenda will be determined by the order in which the Letters of Intent were received in the Commission office.
 - (e) Any application which is determined to not meet the criteria for “simultaneous review” shall be null and void. The application may be re-filed for a subsequent review cycle, but is subject to the same requirements as an original application unless the Letter of Intent is timely filed pursuant to T.C.A. § 68—11—106.
- (4) (e) An application for Certificate of Need which has been deemed complete shall not be amended in a substantive way. This Rule does not prohibit correction of clerical errors in the application.
- (5) (a) The amount of the initial fee shall be equal to \$2.50 per \$1,000 of the estimated capital expenditure involved, but in no case shall this fee be less than \$3,000 nor more than \$50,000.
 - (c) A final fee will be determined upon the Commission’s receipt of the final project report. The amount of the final fee shall be the difference between the initial fee and total fee based on actual final project costs, as such fee is calculated based on \$2.50 per \$1,000 of project costs.
- (10) (e) The participation and fiscal impact of the project in Medicare, TennCare, Medicaid and other State and Federal funding programs.
- (11) An applicant may provide written supporting information to its application during the review cycle. Further, the applicant will have the right to respond in writing to the report made by the reviewing agency. The reviewing agency and the Health Facilities Commission shall receive a copy of the applicant’s response to the agency report not less than eighteen (18) days prior to the Commission meeting.

Authority: T.C.A. §§ 68—11—105(2), 68—11—106(d), 68—11—106(d)(1), 68—11—106(d)(3), 68—11—106(d)(4), 68—11—107, 68—11—108(a)(3), 68—11—108(f) and 4—5—202.

0720—3—.06 EXPIRATION, REVOCATION, AND MODIFICATIONS OF ISSUED CERTIFICATE

0720—3—.06 Expiration, Revocation, and Modifications of Issued Certificate, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (5)(a) and substituting the following language and deleting paragraph (6) and is further amended by deleting paragraph (9) and subparagraph (9)(a), and paragraph (10) in its entirety and substituting the following language: renumbering accordingly and substituting instead the following language, so that as amended the new paragraph (1), subparagraph (5)(a) and paragraph (9) and subparagraph (9)(a) and paragraph (10) shall read:

- (1) Prolonged certificate periods and extensions of expiration dates of certificates are disfavored, and will be sparingly granted. Any request for a prolonged certification period must be clearly set forth in the application in order to be considered. A request for an extension of the expiration date must be made in writing to the Commission and filed

prior to the first day of the month in which the application is to be considered and will be processed in accordance with policies established by staff.

- (5) (a) By way of illustration, but not limitation, if construction had not proceeded beyond the footing stage at three months prior to the expiration date, substantial and timely progress would not be shown.
- (6) Delete in its entirety:
- (9) Modifications and/or addendums to issued certificates or to exemptions. In the event a certificate holder wishes to make substantive changes relating to the scope, cost, or duration of the project, written request must be made to, and formally approved by, the Commission. If approved, such changes may be reflected in either the issuance of a modified Certificate of Need, or by the issuance of an addendum to the original Certificate. If the request is denied, the Commission's decision is final, and no appeal shall be allowed. All other health care institutions or those providing a covered service that otherwise requires a Certificate of Need but having been initiated during a time that the service was not a covered service must meet the requirements of this section when making substantive changes as described in this paragraph.
 - (a) Changes included with the provisions of this subdivision may include cost increases or decreases, downscaling the scope of a project, requests for an extension of the expiration date and changes of ownership including a development agreement as defined in the Commission Rules where allowed by law and Commission
- (10) Any certificate holder seeking the removal of a condition which was placed on the Certificate of Need may make an application in writing to the Commission, forty-five (45) days prior to the month in which the request is to be considered. The application must include the General Criteria for Certificate of Need as outlined in Commission Rules in accordance with policies adopted by the Commission staff. In order to show "good cause" for removing a condition, the certificate holder has the burden of showing that circumstances have significantly changed which necessitate the removal of the condition. Mere disagreement or dissatisfaction with the condition will not be considered to be good cause for removing the condition. All others seeking to expand the scope of a covered service must first apply for a modification and be approved for any changes.

Authority: T.C.A. §§ 68—11—105(2), 68—11—108(a)(1)(ii), 68—11—108(c), 68—11—110, and 4—5—202.

0720—3—.07 MEDICARE SKILLED NURSING FACILITY BED APPLICATIONS

0720—3—.07 Medicare Skilled Nursing Facility Bed Applications is deleted in its entirety with no new language and section reserved.

Authority: T.C.A. § 68—11—105(2), 68—11—121(f)(5).

CHAPTER 0720—4 CERTIFICATE OF NEED PROGRAM — GENERAL CRITERIA

0720—4—.01 GENERAL CRITERIA FOR CERTIFICATE OF NEED

0720—4—.01 General Criteria for Certificate of Need is amended by deleting subparagraph (1)(g) and substituting the following new language and as amended subparagraph (1)(g) shall read:

- (1) (g) The extent to which Medicare, TennCare, Medicaid, and medically indigent patients will be served by the project.

Authority: T.C.A. §§ 68—11—105(2), 68—11—108(b) and 4—5—202.

**CHAPTER 0720—5
CERTIFICATE OF NEED PROGRAM—APPLICATION
DISCLOSURE OF INFORMATION AND REPORTING REQUIREMENTS**

0720—5—.02 REPORT OF BED INCREASES NOT REQUIRING A CERTIFICATE OF NEED

0720—5—.02 Report of Bed Increases Not Requiring a Certificate of Need is amended by deleting paragraph (1) in its entirety and is further amended by deleting paragraph (2) in its entirety and substituting the following new language and shall read :

- (1) Any hospital increasing the number of its licensed beds without the necessity of obtaining a Certificate of Need, as provided by law, shall report such activity to the Commission.
- (2) Any person reporting such increases must provide all information requested. Information required may include but not be limited to the following:

Authority: T.C.A. §§ 68—11—105(2), 68—11—106(d), 68—11—106(a)(6), 68—11—106(b)(1), 68—11—106 (1) and 4—5—202.

0720—5—.03 REPLACEMENT OR UPGRADE OF MAJOR MEDICAL EQUIPMENT

0720—5—.03 Replacement or Upgrade of Major Medical Equipment is amended by deleting paragraph (1) in its entirety and is further amended by deleting paragraph (2) in its entirety and substituting the following new language and shall read:

- (1) Any person claiming an exemption from the Certificate of Need requirements for the replacement or upgrade of major medical equipment shall report the replacement or upgrade to the Commission.
- (2) Any person claiming the exemption must provide all information requested. Information which may be required may include, but not be limited to the following:

Authority: T.C.A. §§ 68—11—105(2), 68—11—106(d)(7), 68—11—106(a)(6), 68—11—106(b)(1), 68—11—106(f) and 4—5—202.

0720—5—.04 REPORT OF CHANGE OF OWNERSHIP OF LICENSED INSTITUTIONS

0720—5—.04 Report of Change of Ownership of Licensed Institutions is amended by deleting paragraph (1) in its entirety and is further amended by deleting paragraph (2) in its entirety and substituting the following new language and shall read:

- (1) Notice of a change of ownership of a health care institution, occurring within two years of the date of initial licensure, must be reported to the Commission.
- (2) Any person reporting such a change of ownership must provide all information requested by the Commission. Information required may include, but not be limited to the following:

Authority: T.C.A. §§ 68—11—105(2), 68—11—106(d)(7), 68—11—106(a)(6), 68—11—106(b)(1), 68—11—106(f) and 4—5—202.

0720—5—.05 REGISTRATION OF EQUIPMENT

0720—5—.05 Registration of Equipment is deleted in its entirety and reserved.

Authority: T.C.A. §§ 68—11—105(2), 68—11—106(4)(7), 68—11—106(a)(6), 68—11—106(b)(1), 68—11—106(f), and 4—5—202.

0720—5—.06 REGISTRATION OF LICENSED BEDS AND USES

0720—5—.06 Registration of Licensed Beds and Uses is deleted in its entirety and the section is reserved.

This section deleted in its entirety and reserved.

Authority: T.C.A. §§ 68—11—105(2), 68—11—106(d)(7), 68—11—106(a)(6), 68—11—106(b)(1), 68—11—106(f) and 4—5—202.

**CHAPTER 0720—6
CERTIFICATE OF NEED PROGRAM— CONTESTED CASES
RULES OF PROCEDURE FOR HEARING CONTESTED CASES**

0720—6—.01 GENERAL PROCEDURES FOR CONTESTED CASES

0720—6—.01 General Procedures for Contested Cases is deleted in its entirety and substituting the following language, so that as amended the new paragraphs (1), (2), (3), and (4) shall read:

- (1) Except as otherwise provided herein, all contested cases before the Commission will be conducted in accordance with T.C.A. § 68—11—109, and T.C.A. § 68—11—108(h)(1)(2), with these Rules, and with the Rules of the Secretary of State Chapter 1360—4—1.
- (2) Eligibility to appeal. Any person with legal standing and who meets the requirements of T.C.A. §§ 68—11—109 and 68—11—108(h)(1)(2) may petition the Commission for a contested case hearing regarding the grant or denial of a Certificate of Need.
- (3) Filing of petitions. Petitions for contested case hearing must be filed with the Commission in triplicate and must be received at the Commission’s business office within thirty (30) days of the date of the Commission’s meeting at which the action which is the subject of the petition took place. Any such petition received by facsimile transmission will not be considered as having been “filed” with the Commission, except on the express authorization of the Executive Director, for good cause.
- (4) Intervention. Any person with legal standing and who meets the requirements of T.C.A. § 4—5—310 may file a petition for intervention in a contested case, within the time limit set forth in T.C.A. § 68—11—109(a). Noncompliance with T.C.A. § 68—11—108(h)(1) shall not preclude a health care institution from intervening in a contested case proceeding initiated by the applicant.

Authority: T.C.A. §§ 68—11—105(2), 68—11—108, 68—11—108(h)(1), 68—11—108(h)(2), 68—11—109, 68—11—109(a), 4—5—223, 4—5—310, 4—5—314 and 4—5—202.

CHAPTER 0720—7
EXEMPTION FROM CERTIFICATE OF NEED REQUIREMENTS FOR
AMBULATORY SURGICAL TREATMENT CENTERS

0720—7—.03 GUIDELINES FOR DETERMINING EXEMPTIONS

0720—7—.03 Guidelines for Determining Exemptions is deleted in its entirety and the section is reserved.

Authority: T.C.A. §§ 68—11—105(2) and 4—5—202.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st of October, 2000. (10-19)

BOARD OF MEDICAL EXAMINERS' - 0880
COMMITTEE ON PHYSICIAN ASSISTANTS

There will be a hearing before the Tennessee Board of Medical Examiners' and its Committee on Physician Assistants to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-19-104, 63-19-105, 63-19-106, and 63-19-107. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 3rd day of January, 2001.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0880-3-.01, Definitions, is amended by adding the following language as a new, appropriately number paragraph, and is further amended by deleting paragraph (7) in its entirety and substituting instead the following language, so that as amended, the new, appropriately number paragraph and the new paragraph (7) shall read:

- () A.R.C.-P.A. – For physician assistant education accreditation, the successor organization to C.A.A.H.E.P. which stands for the Accreditation Review Committee on Education for the Physician Assistant.
- (7) C.A.A.H.E.P. - The successor organization to C.A.H.E.A. which stands for the Commission on Accreditation of Allied Health Education Programs, or its successor accrediting agency.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-19-104, and 63-19-105.

Rule 0880-3-.04, Qualifications for Licensure, is amended by deleting subparagraphs (1) (a) and (2) (a) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (a) and (2) (a) shall read.:

- (1) (a) The person is a graduate of a physician assistant training program accredited by C.A.H.E.A., C.A.A.H.E.P. or A.R.C.-P.A.; and
- (2) (a) The person is a graduate of a physician assistant program accredited by C.A.H.E.A., C.A.A.H.E.P. or A.R.C.-P.A. at the time of graduation; and

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-19-104, and 63-19-105.

Rule 0880-3-.05, Procedures for Licensure, is amended by deleting subparagraphs (1) (d) and (2) (d) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (d) and (2) (d) shall read.:

- (1) (d) It is the applicant's responsibility to request that a graduate transcript, from an education program approved by the C.A.H.E.A., C.A.A.H.E.P. or A.R.C.-P.A., be submitted directly from the program to the Committee's Administrative Office. The transcript must show that graduation has been completed and carry the official seal of the institution.
- (2) (d) It is the applicant's responsibility to request that a graduate transcript, from an education program approved by the C.A.H.E.A., C.A.A.H.E.P. or A.R.C.-P.A., be submitted directly from the program to the Committee's Administrative Office. The transcript must show that graduation has been completed and carry the official seal of the institution.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-19-104, and 63-19-105.

Rule 0880-3-.21, Prescription Writing, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) Every prescription issued by a physician assistant shall be entered into the medical records of the patient and shall be written on a preprinted prescription pad bearing the name, address and telephone number of the supervising

physician and the physician assistant. The physician assistant shall sign both the name of the supervising physician and his or her own name on each prescription issued.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-19-104, 63-19-105, 63-19-106, and 63-19-107.

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of October, 2000. (10-05)

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS - 1020

There will be a hearing before the Tennessee Board of Examiners for Nursing Home Administrators to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-16-103. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 18th day of December, 2000.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1020-1-.05, Licensure, is amended by deleting paragraph (4) in its entirety.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-105, 63-16-106, and 63-16-109.

Rule 1020-1-.10, Examinations, is amended by deleting subparagraphs (2) (a) and (2) (b) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (2) (a), (2) (b), (2) (c), and (2) (d) shall read:

- (2) (a) When an applicant has become eligible for licensure and has submitted the Jurisprudence Examination Fee as provided in rule 1020-1-.02 (1) (g), the Board shall send notification of such eligibility and the jurisprudence examination to the applicant.

- (2) (b) The examination must be completed and returned to the Board Administrative Office before the expiration of ninety (90) days from the date of notification of eligibility, or the applicant shall forfeit such eligibility and must begin the licensure process over.
- (2) (c) The scope, format, and content of the examination shall be determined by the Board but limited to statutes and rules governing practices and facilities.
- (2) (d) The examination shall be graded on a pass/fail basis. Applicants who fail to achieve a “pass” on the examination may apply to retake it by written request to the Board Administrative Office and payment of the Jurisprudence Examination Fee as provided in rule 1020-1-.02 (1) (g).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-105, 63-16-106, and 63-16-109.

Rule 1020-1-.15, Licensure Discipline, Civil Penalties, Informal Settlements, Assessment of Costs and Subpoenas, is amended by deleting item (7) (c) 1. (iii) (I) in its entirety and substituting instead the following language, so that as amended, the new item (7) (c) 1. (iii) (I) shall read:

- (7) (c) 1. (iii) (I) In as timely a manner as possible arrange for either an elected officer of the board, or any duly appointed or elected chairperson of any panel of the board, to preside and determine if issuing the subpoena should be recommended to the full Board; and

Rule 1020-1-.15, Licensure Discipline, Civil Penalties, Informal Settlements, Assessment of Costs and Subpoenas, is amended by deleting subitems (7) (c) 1. (iv) (II) III. and (7) (c) 1. (iv) (II) V. in their entirety and substituting instead the following language, and is further amended by deleting subitem (7) (c) 1. (iv) (II) VI. in its entirety and renumbering the remaining subitem accordingly, so that as amended, the new subitems (7) (c) 1. (iv) (II) III. and (7) (c) 1. (iv) (II) V. shall read:

- (7) (c) 1. (iv) (II) III. Hear and maintain the confidentiality, if any, of the evidence presented at the proceedings and present to the full board only that evidence necessary for an informed decision; and
- (7) (c) 1. (iv) (II) V. Determine based solely on the evidence presented in the proceedings whether probable cause exists and if so, make such recommendation to the full board; and

Rule 1020-1-.15, Licensure Discipline, Civil Penalties, Informal Settlements, Assessment of Costs and Subpoenas, is amended by adding the following language as new item (7) (c) 1. (iv) (III):

- (7) (c) 1. (iv) (III) The Board shall do the following:
 - I. By a vote of two thirds (2/3) of the board members issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry, or quash or modify an existing subpoena by a majority vote; and
 - II. Sign the subpoena as ordered to be issued, quashed or modified.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-108, and 63-6-115.

The notice of rulemaking set out herein was properly filed in the Department of State on the 17th day of October, 2000. (10-07)

BOARD OF OSTEOPATHIC EXAMINATION - 1050

There will be a hearing before the Tennessee Board of Osteopathic Examination to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-112, and Public Chapter 956 of the Public Acts of 2000. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 25th day of January, 2001.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES**AMENDMENTS**

Rule 1050-3-.01 Definitions, is amended by deleting the reference to the A.R.C.R.T. in paragraph (4), so that as amended that paragraph shall read:

- (4) Full Certification - Certification obtained by submitting certification issued by the A.R.R.T. which will enable the holder to perform any and all procedures or functions in a physician's office.

Rule 1050-3-.01 Definitions, is amended by deleting paragraph (1) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-112, and Public Chapter 956 of the Public Acts of 2000.

Rule 1050-3-.02, Scope of Practice, is amended by deleting the reference to the A.R.C.R.T. in paragraph (4), so that as amended that paragraph shall read:

- (4) A.R.R.T. certificate-holders are fully certified and may perform any and all radiographic procedures or functions in a physician's office that are within the American Society of Radiologic Technologists' scope of practice for radiographers.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-6-112, and Public Chapter 956 of the Public Acts of 2000.

Rule 1050-3-.03 Certification Requirements and Exemptions, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Graduates of a Board-approved radiological education course who are awaiting examination but only for a period not to exceed six (6) months from the date that the course was completed. After sitting for the examination and awaiting the results this exemption shall continue for a period not to exceed seventy-five (75) days. At all times while awaiting examination or examination results and until certification is received, graduates shall practice only under supervision as set forth in subparagraph 1050-3-.07 (2)(c).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, and Public Chapter 956 of the Public Acts of 2000.

Rule 1050-3-.04, Qualifications for Full and Limited Certification, is amended by adding the following language as new subparagraph (1) (f):

- (1) (f) Bone densitometry

Subparagraphs (2) (e) and (2) (f) and paragraph (4) of rule 1050-3-.04, Qualifications for Full and Limited Certification, are amended by deleting the references to the "A.R.C.R.T.", so that as amended those subparagraphs and paragraph shall read:

- (2) (e) Cause to have submitted verification of attendance and successful completion of a Board-approved radiological certification training course for the type of certification sought pursuant to Rule 1050-3-.07(2) or cause to be submitted verification of A.R.R.T. certification; and
- (2) (f) Have successfully completed the Board-approved examination pursuant to Rule 1050-3-.08 or possess an A.R.R.T. certificate; and
- (4) Any person who holds a certification issued by the A.R.R.T. who meets the qualifications of paragraph (2) of this rule may receive full certification from the Board.

Rule 1050-3-.04, Qualifications for Full and Limited Certification, is amended by adding the following language as new paragraphs (5) and (6):

- (5) Any person who holds a limited certification in good standing issued by the Board in the chest, skull, or sinus specialty areas, or any person who has successfully completed the course described in subparagraph 1050-3-.07 (2) (a), may receive limited certification upgrade in bone densitometry without compliance with the provisions of part 1050-3-.07 (2) (b) 2..
- (6) Any person who holds a limited certification in good standing issued by the Board in the extremities or spine specialty areas may receive limited certification upgrade in bone densitometry without compliance with the provisions of Rule 1050-3-.07.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-112, and Public Chapter 956 of the Public Acts of 2000.

Rule 1050-3-.05, Obtaining and Upgrading Full and Limited Certification, is amended by deleting part (1) (b) 1. in its entirety and substituting instead the following language, so that as amended, the new part (1) (b) 1. shall read:

- (1) (b) 1. An applicant shall cause to be submitted from the radiological educational course director to the Board Administrative Office certification of successful completion of any course(s) required by paragraph 1050-3-.07 (2) which shall include certification from the supervising physician(s) of successful completion of the required clock hours of clinical training for each separate area of specialty certification requested.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-112, and Public Chapter 956 of the Public Acts of 2000.

Rule 1050-3-.07, Educational Course Approval and Curriculum for Limited Certification, is amended by deleting subparagraphs (1) (b), (2) (a), (2) (b), and (2) (c) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (b), (2) (a), (2) (b) and (2) (c) shall read:

- (1) (b) Names of physicians, A.R.R.T. technologists, physicists or other work-qualified personnel who are acting as instructors; and
- (2) (a) Basic Course - Defined as the core, theory or foundation education basic to radiography. The basic course is prerequisite to any specialty area certification except bone densitometry, but needs to be successfully completed only once. The basic radiological course shall include, but not be limited to, imaging equipment, principles or radiographic exposure, radiation protection, radiographic quality and radiographic film processing. This course shall consist of fifty (50) clock hours. Successful completion of this course may be substituted for the bone densitometry course required in part (2) (b) 2..
- (2) (b) Specialty Areas
 1. Chest, extremities, skull, sinus, spine - Defined as the study of radiography of a particular anatomical part including human structure and function, radiographic positioning and procedures, and evaluation of radiographs. Each specialty area course shall consist of ten (10) clock hours.
 2. Bone Densitometry - Defined as the core, theory or foundation education basic to operation of bone densitometry equipment. This course shall include, but not be limited to: radiation protection and safety, principles of exposure of bone densitometry scanning machines, patient care, and anatomy of long bones and spine, including construction of bone, destruction of bone, and measurement of bone mass. This specialty area course shall consist of twenty-four (24) clock hours.
- (2) (c) Clinical Training
 1. Chest, extremities, skull, sinus, spine - Defined as “hands-on” observation and participation in the production of diagnostic radiographs. Clinical training must be supervised by either a residency-trained radiologist, or by a licensed physician in conjunction and consultation with a fully-licensed and registered operator (A.R.R.T. technologist) with at least three (3) years experience when appropriate.
 - (i) This training shall consist of at least sixty (60) clock hours for each specialty area in which certification is sought; and
 - (ii) The educational course provider, through a radiologist or fully-certified radiologic technologist, is responsible for determining, by use of a board-approved guideline, whether a student has the necessary clinical skills to gain entrance to the certification examination(s). With justification and documentation thereof, the educational course provider may extend the length of the clinical training for a reasonable period of time beyond the minimum sixty (60) clock hours to accomplish the responsibility placed upon it by this rule.

2. Bone Densitometry – Clinical bone scanning training must be supervised by either a residency-trained radiologist, or by a licensed physician in conjunction and consultation with a registered or certified operator with at least three (3) years experience when appropriate.
 - (i) All applicants must have machine specific training according to the following:
 - (I) The applicant must receive training on the same type machine that (s)he will be operating.
 - (II) This machine-specific training may be done by the manufacturer (or authorized representative) or by a person certified in Bone Densitometry and who has received machine-specific training by the manufacturer on the appropriate machine.
 - (III) The machine-specific training shall include, but not be limited to: Identification of machine components; Operation of machine; Exposure doses for various scans from the machine; Positioning for each scan procedure; Adjusting for errors; Image Acquisitions; Reference Databases; Quality Control Procedures.
 - (ii) All manufacturers or their authorized representatives and all persons holding bone densitometry certification who conduct any training under this rule must register with the Board and certify as to the level of success of each person trained.

Rule 1050-3-.07, Educational Course Approval and Curriculum for Limited Certification, is amended by adding the following language as new part (2) (d) 6.:

- (2) (d) 6. Bone densitometry

Rule 1050-3-.07, Educational Course Approval and Curriculum for Limited Certification, is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph (3) shall read:

- (3) Course approval may be withdrawn if the Board finds the course inadequate for certification purposes based upon random auditing of the course and/or its effectiveness in producing qualified graduates. The minimum standard for continued course approval shall be based upon at least a fifty percent (50%) graduate pass rate for first time takers on the examinations over at least a six (6) month period.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-112, and Public Chapter 956 of the Public Acts of 2000.

Rule 1050-3-.08, Examination for Certification, is amended by deleting the paragraphs (1), (2), and (3) in their entirety and substituting instead the language, so that as amended, the new paragraphs (1), (2), and (3) shall read:

- (1) Full Certification – A.R.R.T. certification will substitute for all examinations required by the Board and will be the basis for full certification.
- (2) Limited Certification

- (a) Chest, extremities, skull, sinus, spine - The Board adopts as its certification examination all limited scope examinations and the general core examination provided by the A.R.R.T. Applicants for these specialty area certifications must successfully complete the following examinations or their identified successor examinations:
 - 1. The A.R.R.T. core examination; and
 - 2. The limited scope examination(s) for the area(s) in which certification is sought.
 - 3. Pursuant to subparagraph 1050-3-.07 (2)(c), no applicant shall be allowed access to the limited certification examination(s) until clinical competency has been determined by the course provider, and certified in writing by the supervisor who provided the training.
- (b) Bone Densitometry - All applicants must pass a competency test written and evaluated by the manufacturer or its authorized representative. Certification of passage of the examination must be sent directly to the Board from the manufacturer or its authorized representative.
- (3) It is the applicant's responsibility to apply directly to the examination agency, the manufacturer, or the manufacturer's representative for admission to the examinations. The Board does not process applications for examination.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-6-112, and Public Chapter 956 of the Public Acts of 2000.

Rule 1050-3-.09, Renewal of Certification, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read as follows:

- (2) Reinstatement of Certification
 - (a) Reinstatement of a certificate administratively revoked pursuant to these rules may be accomplished upon meeting the following conditions:
 - 1. A completed and signed reinstatement application form; and
 - 2. Payment of accumulated renewal and state regulatory fees as provided in rule 1050-3-.06; and
 - 3. Provide verification of continuing education as pursuant to rule 1050-3-.12
 - (b) Reinstatement of a certificate retired pursuant to these rules may be accomplished upon meeting the following conditions:
 - 1. A completed and signed reinstatement application form; and
 - 2. Payment of renewal and state regulatory fees as provided in rule 1050-3-.06; and
 - 3. Provide verification of continuing education as pursuant to rule 1050-3-.12
 - (c) Reinstatement decisions pursuant to this rule may be made administratively, upon review by the Board or the Board's designee.

- (d) If requested, after review by the Board or the Board's designee, the applicant shall appear before the Board for an interview regarding continued competence in the event of certification retirement, administrative revocation or other practice inactivity in excess of two (2) years, and meet such other requirements the Board feels necessary to establish current levels of competency.
- (e) Anyone submitting a signed reinstatement form or letter which is found to be untrue may be subjected to disciplinary action as provided in T.C.A. § 63-9-111.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-6-112, and Public Chapter 956 of the Public Acts of 2000.

Rule 1050-3-.12, Continuing Education, is amended by adding the following language as new part (3) (d) 2., and renumbering the remaining part accordingly:

- (3) d) 2. Courses accepted by the American Registry of Radiologic Technologists.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-112, and Public Chapter 956 of the Public Acts of 2000.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of October, 2000. (10-16)

BOARD OF PHARMACY - 1140

There will be a hearing before the Tennessee Board of Pharmacy to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, Section 63-10-504(b)(1). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in Room 160 of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee at 9:00 A.M. (CST) on the 21st day of December, 2000.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with Verna Norris, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243 and (615) 741-0481.

SUBSTANCE OF PROPOSED RULES**CHAPTER 1140-1
INTRODUCTORY RULES
AMENDMENTS**

Rule 1140-1-.01 Definitions is amended by adding after paragraph (23) the following language as paragraphs (24) and (25) and renumbering the subsequent paragraphs accordingly:

- (24) "Pharmacy Technician Training Program" means a training program specifically designed for the education and training of pharmacy technicians. The curriculum for the training program shall be developed, at least in part, by a supervising licensed pharmacist, as defined in this part.
- (25) "Pharmacy Technician Training Program Site" means any educational facility within this state where the Pharmacy Technician Training Program is offered and where the site possesses and stores prescription drug products. Said site may possess and store certain prescription drug products for the purpose of education and instruction of students. No program shall possess and store controlled substances as defined by the Code of Federal Regulation or the Tennessee Code Annotated or legend drugs. The supervising licensed pharmacist shall develop policies and procedures including, but not limited to, the security, storage, procurement, and destruction of the prescription drugs.

Authority: T.C.A. §63-10-404(5),(6),(14),(22),(26),(28),(29); §63-10-504(b)(1).

Rule 1140-1-.01 Definitions is amended by adding after renumbered paragraph (29) the following language as new paragraph (30) and renumbering the subsequent paragraphs accordingly:

- (30) "Supervising Licensed Pharmacist" means a pharmacist, duly licensed in the state of Tennessee, who assists in the development and monitoring of the curriculum of a Pharmacy Technician Training Program, as defined in this part. Said pharmacist shall also have the responsibility for all drugs used in the training of pharmacy technician students and/or stored at the Pharmacy Technician Training Program Site and for the compliance with all of the laws and rules pertaining to the practice of pharmacy in the State of Tennessee.

Authority: T.C.A. §63-10-404(5), (6), (14), (22), (26), (28), (29); §63-10-504(b)(1).

Rule 1140-1-.08 Application for Pharmacy Practice Site, Manufacturer and Wholesaler License is amended by deleting the text of the catchline and substituting the following language so that, as amended, the catchline shall read as follows:

Application for Pharmacy Practice Site, Manufacturer and Wholesaler License, and Pharmacy Technician Training Program Site.

Authority: T.C.A. §63-10-404(18), (28), (30), (37); §63-10-504(b)(1) and (2); §63-10-508.

Rule 1140-1-.08 Application for Pharmacy Practice Site, Manufacturer and Wholesaler License is further amended by deleting the text of paragraph (1) and substituting the following language so that, as amended, paragraph shall read:

- (1) Application for a license to operate as a pharmacy practice site, manufacturer, wholesaler, or pharmacy technician training program site within the state of Tennessee shall be submitted to the office of the board at least thirty (30) days prior to the scheduled opening date. No pharmacy practice site, manufacturer, wholesaler, or pharmacy technician training program site may open within the state of Tennessee until a license has been obtained, but such license will not be issued until an authorized representative of the board has made an inspection.

Authority: T.C.A. §63-10-404(18), (28), (30), (37); §63-10-504(b)(1) and (2); §63-10-508.

Rule 1140-1-.08 Application for Pharmacy Practice Site, Manufacturer and Wholesaler License is amended by adding the following language as new paragraph (4) and renumbering the subsequent paragraphs accordingly:

- (4) Pharmacy Technician Training Program Site
 - (a) Submit an application for a license on a form prescribed by the Board. Said application shall include:
 1. The physical address of the pharmacy technician training program site;
 2. The names and titles of all of the officers of the corporation, firm, or educational facility that is sponsoring the training program;
 3. The name and license number of the supervising licensed pharmacist of the site; and
 4. The appropriate application fee as set in Rule 1140-1-.10(4) of the Rules of the Tennessee Board of Pharmacy.
 - (b) The supervising licensed pharmacist shall notify the Board, in writing, within thirty (30) days of any change of information contained in the original application for a license.
 - (c) The supervising licensed pharmacist shall be responsible for compliance with all statutorily authorized directions and requests from the Board.
 - (d) The pharmacy practice site shall maintain, at all times, a current license to operate a pharmacy technician practice site within this state.

Authority: T.C.A. §63-10-404(18), (28), (30), (37); §63-10-504(b)(1) and (2); §68-10-507; §63-10-508.

Rule 1140-1-.10 Fees is amended by adding after paragraph (3) the following language as new paragraph (4) and renumbering the subsequent paragraphs accordingly:

- (4) Each person becoming registered as a pharmacy technician shall pay a registration fee of fifty dollars (\$50.00). Each person who desires to continue to practice as a pharmacy technician shall biennially, on or before the last day of the month that the person's registration shall expire, pay a renewal fee of fifty dollars (\$50.00).

Authority: T.C.A. §63-10-504(b)(1) and (2); §63-10-506; §63-10-508.

Rule 1140-1-.10 Fees is further amended by deleting the text of renumbered paragraph (5), and substituting the following language so that, as amended, new paragraph (5) shall read:

- (5) Any person, partnership, firm, corporation or agency owning or operating a pharmacy practice site, pharmacy technician training program site, or any establishment or institution where prescription drugs or devices and related materials are kept for the purpose of the compounding and dispensing of medical and prescription orders, shall pay a registration fee of one hundred sixty eight dollars (\$168.00) biennially. Any new pharmacy practice site or pharmacy technician training program site to be opened or established, or any change in location, name or ownership of any existing pharmacy practice site or pharmacy technician training program site, shall, before active operation, obtain a license from the board and shall pay a fee of one hundred sixty eight dollars (\$168.00).

Authority: T.C.A. §63-10-404(17), (30); §63-10-504(b)(1) and (2); §63-10-506; §63-10-508.

Rule 1140-1-.10 Fees is further amended by deleting the text of renumbered paragraph (11), and substituting the following language so that, as amended, new paragraph (11) shall read:

- (11) If any person fails to renew a license or registration certificate, such license or registration certificate may be reinstated upon complying with rule 1140-1-.07 and upon the payment of the appropriate renewal fee plus a penalty fee of ten dollars (\$10.00) for each month or fraction thereof that payment for renewal is delinquent. In the event such renewal is not procured within six (6) months from the date on which the last renewal became delinquent, the board may refuse to issue the renewal.

Authority: T.C.A. §63-10-404(17), (30); §63-10-504(b)(1) and (2); §63-10-506; §63-10-508.

Rule 1140-1-.10 Fees is further amended by deleting the text of renumbered paragraph (12), and substituting the following language so that, as amended, new paragraph (12) shall read:

- (12) A penalty of fifty dollars (\$50.00) may, in the discretion of the board, attach to each failure of a licensee or registration certificate holder to provide any required notice to the director as may be required by the rules of the board.

Authority: T.C.A. §63-10-404(17), (30); §63-10-504(b)(1) and (2); §63-10-506; §63-10-508.

Rule 1140-1-.14 Prescription Drugs Dispensed by Health Departments is amended by adding “Aldara (Imiquimod)” as new subparagraph (2)(p).

Authority: T.C.A. §63-10-404(26), (27) and (29); §63-10-504(b)(1); §63-10-504(b)(1)(c).

CHAPTER 1140-2
PROFESSIONAL CONDUCT AND RESPONSIBILITIES
AMENDMENTS

Rule 1140-2-.02 Pharmacy Technicians is amended by adding after the catchline following language as new paragraph (1) and renumbering the subsequent paragraphs accordingly:

- (1) Any person acting as a pharmacy technician shall register with the board by submitting an application on a form prescribed by the board. The applicant shall also:
- (a) Provide a statement of good moral character;
 - (b) Score a minimum of 75% on a test provided by the board and administered by the board or its designee;
 - (c) Submit the appropriate application fee as set in Rule 1140-1-.10 of the Rules of the Board of Pharmacy; and

Authority: T.C.A. §63-10-404(30); §63-10-404(30); §63-10-504(b)(1); §63-10-504(b)(1)(c).

Rule 1140-2-.02 Pharmacy Technicians is further amended by deleting the text of renumbered paragraph (9) and substituting the following language so that, as amended, paragraph (9) shall read as follows:

- (9) All registered technicians shall conspicuously display the technician's registration certificate at the primary practice site; additionally, all certified technicians shall display in like manner evidence of certification. Pharmacy technicians shall possess at all times, while on duty, proof of registration and proof of certification, if applicable.

Authority: T.C.A. §63-10-404(30); §63-10-504(b)(1); §63-10-504(b)(1)(c).

Rule 1140-2-.02 Pharmacy Technicians is further amended by adding the following language as new paragraph (10):

- (10) All registered technicians shall immediately notify the board in writing of any change of address or employer, in writing.

Authority: T.C.A. §63-10-404(30); §63-10-504(b)(1); §63-10-504(b)(1)(c).

Rule 1140-2-.02 Pharmacy Technicians is further amended by adding the following language as new paragraph (11):

- (11) The board may, in its discretion after proper application, grant registered technician status to a pharmacist whose license has been denied, revoked, suspended or restricted in any way by the board.

Authority: T.C.A. §63-10-404(30); §63-10-504(b)(1); §63-10-504(b)(1)(c).

CHAPTER 1140-3 STANDARDS OF PRACTICE

AMENDMENTS

Rule 1140-3-.04 Facsimile and Electronic Medical and Prescription Orders is amended by deleting the text of paragraph (2) and substituting the following language so that, as amended, paragraph (2) shall read:

- (1) Electronic Orders.
- (a) Prescription or medical orders transmitted electronically shall meet the following criteria:
1. All prescription or medical orders shall be transmitted directly from an authorized prescriber or prescriber's agent to a pharmacist in a licensed pharmacy of the patient's choice with no intervening person or entity having access to the order.
 2. The transmission shall include:
 - (i) The telephone number of the authorized prescriber to allow verbal confirmation of the validity and accuracy of the order;
 - (ii) The correct time and date of the transmission;
 - (iii) The name of the pharmacy to which the order is being transmitted; and
 - (iv) The prescribing practitioner's electronic signature or other secure method of validation. "Electronic Signature" is defined as the process that secures the user authentication (proof of claimed identify, such as by biometrics, fingerprints, retinal scans, hand written signature verification, etc.) at the time the signature is generated and creates the logical manifestation of a signature.

- (v) If the transmission is delegated by the prescriber to an agent of the prescriber, the identity of the agent shall be included in the transmission.
- (b) A hard copy or exact image of the transmitted order shall be maintained in the pharmacy and shall be deemed the original prescription or medical order meeting all requirements of rule 1140-3-.03 of the rules of the board.
- (c) The pharmacist receiving any transmitted order shall not knowingly participate in any system that restricts the patient's choice of pharmacy. The pharmacist may not provide financial or other remuneration to the prescriber for any prescription transmitted to the dispensing pharmacy. No person or entity, including but not limited to wholesalers, distributors, manufacturers, pharmacists, and pharmacies, shall supply electronic equipment, devices, or modems to any prescriber in exchange for transmitting orders.
- (d) The pharmacist shall ensure that the transmitted order is received in the pharmacy or pharmacy department in an area under the direct supervision of a pharmacist.
- (e) The pharmacist shall not use the electronic transmission of orders to circumvent or violate any provision of state or federal drug laws, or the Tennessee Pharmacy Practice Act, or the regulations of the board.
- (f) Subject to the provisions of this rule, a prescriber or prescriber's agent may electronically transmit medical or prescription orders to a pharmacist within an institutional facility for inpatients and/or outpatients currently under treatment at that facility.
- (g) This rule shall not apply to medical or prescription orders electronically transmitted between pharmacies or medical or prescription orders transmitted by facsimile.

Authority: T.C.A. §63-10-404(19), (26), (29), (30), (34); §63-10-504(b)(1)(2); §63-10-504(j).

Paragraph (2) of Rule 1140-3-.14 Pharmacist in Charge is amended by deleting the words "by certified mail", so that, as amended, paragraph (2) shall read:

- (2) It shall be the responsibility of the person, partnership, firm or corporation holding a pharmacy practice site license issued pursuant to T.C.A. §63-10-506 to notify the board immediately of:
 - (a) the registration, removal, or death of the pharmacist in charge named in the application for the license (or successor pharmacist in charge); or
 - (b) the disability for a period exceeding thirty (30) days of the pharmacist-in-charge named in the application for the license (or successor pharmacist in charge).

Authority: T.C.A. §63-10-404(2), (25), (26), (27), (28) and §63-10-504(b)(1)(2).

CHAPTER 1140-4
INSTITUTIONAL AND ALTERNATE OR ALTERNATIVE INFUSION PHARMACY PRACTICE SITES
AMENDMENTS

Rule 1140-4-.09 Emergency Kits is amended by deleting the text of the catchline and substituting the following language so that, as amended, the catchline shall read:

Emergency and Home Care Kits.

Authority: *T.C.A. §63-10-504(b)(1) and (2).*

Rule 1140-4-.09 Emergency Kits is further amended by deleting the text of the rule in its entirety and substituting the following language so that, as amended, the rule shall read as follows:

- (1) Emergency Kits.
 - (a) Drugs and devices and related materials may be provided by emergency kits, provided that such kits meet the following requirements:
 1. Emergency kit drugs are those drugs which may be required to meet the immediate therapeutic needs of patients and which are not available from any other authorized source in sufficient time to prevent risk of harm to patients. Drugs in this kit are to be used only for emergency orders.
 2. The policies and procedures to implement the requirements of this section and to approve the contents of the emergency kit will be determined by a committee which shall consist of the pharmacist – in – charge and such other representatives of the medical and nursing staff of the institution as he or she shall designate .
 3. The emergency kit shall be provided, sealed or electronically secured by authorized personnel in accordance with established policies. The expiration date of the kit shall be clearly marked on the exterior of the kit to represent the earliest expiration date of any drug, device, or related materials contained in the kits.
 4. Emergency kits shall be stored in a secured area at the institutional facility or patient care site to prevent unauthorized access. To ensure a proper environment for preservation of the drugs contained therein, appropriate policies and procedures shall be written to include storage at the site of patient care.
 5. Only authorized individuals may obtain drugs, devices or related materials from the emergency kit in accordance with established policies and state and federal laws and regulations.
 6. A list of the emergency kit contents shall be readily accessible and it shall include the drugs, devices, and related materials contained therein and include the name (trade and/or generic), strength, and quantity of the products contained therein.
 7. A mechanism must be in place to ensure that the emergency kits are not in use after the expiration date.
 8. Drugs contained within the emergency kit shall be properly labeled according to the United States Food and Drug Administration (FDA) labeling requirements for the drug or device and with additional information that may be required by the staff to prevent misunderstanding or risk of harm to the patients.

9. Removal of any drug, device, or related material from the emergency kit shall be pursuant to a valid medical or prescription order and must be documented by established policy which may include patients identification, name of the drug, strength, amount, date, time, and identification of the authorized individual removing the drug.
 10. When a caregiver opens an emergency kit is opened, the caregiver shall notify the pharmacy practice site, and the kit shall be restocked and resealed within a reasonable time so as to prevent risk of harm to patients.
- (2) Home Care Kits.
- (a) A home care kit is a kit containing certain drugs, as set by the board, to be kept in the home of the patient for use by a healthcare professional engaged in home healthcare of a patient as necessary to meet the therapeutic needs of patients and which are not available from any other source in sufficient time to prevent risk of harm to patients.
 1. A home care kit may contain:
 - (i) Sodium Chloride for Injection 0.9% Bacteriostatic
 - (ii) Sterile Water for injection Vacteriostatic or Preservative Free
 - (iii) Epinephrine injection 1mg/ml
 - (iv) Diphenhydramine
 - (v) Heparin Flush ≤ 100 u/ml
 - (vi) Naloxone
 - (vii) Sodium Chloride for Irrigation
 - (viii) Sterile Water for Irrigation
 - (ix) Dextrose 50%
 - (x) Urokinase 5000units
 - (xi) Any other legend drug as approved by the board.
 - (b) Drugs contained in home care kits are to be used for emergencies only. Maintenance of a central venous catheter is considered an emergency if confirmed with the patient's physician or his/her designee.
 - (c) Appropriate policies and procedures shall be in place for the dispensing, use, storage at the patient care site, security and expiration date review, and reconciliation of drug contents by the pharmacy and home health care organization to assure compliance with the provisions of this rule. Additional policies or protocols for treating anaphylactic reaction, maintaining patency of intravenous or central venous catheters, or flushing of intravenous devices shall be established.
 - (d) Removal of any drug from the Home Care Kit shall be pursuant to a valid medical or prescription order and/or protocol and must be documented in the patient's medical record.

- (e) When a home caregiver opens a home care kit, the caregiver shall notify the pharmacy; the kit shall be restocked and resealed within a reasonable time.

Authority: T.C.A. §63-10-404(8), (14), (16), (19), (27), (28) and (34); §63-10-504(b)(1)(2).

Chapter 1140-5
Continuing Education

Amendments

Rule 1140-5-.02 Reporting System is amended by deleting the text of the rule in its entirety and substituting the following language, so that, as amended, the rule shall read:

- (1) Each pharmacist shall submit to the board with the license renewal form, and on a form provided by the Tennessee Board of Pharmacy, a sworn statement indicating that the pharmacist has completed the required number of continuing pharmaceutical education hours.
- (2) The board shall not renew the license of any pharmacist until the applicant has submitted the required sworn statement indicating that the pharmacist has completed the required number of continuing pharmaceutical education contact hours during the previous license cycle.
- (3) The licensee shall produce proof of the completion of the required number of continuing pharmaceutical education hours upon the request of the board or its designee.
- (4) Falsification of the continuing pharmaceutical education sworn statement may result in the probation, suspension or revocation of the pharmacist's license and/or the imposition of a civil penalty not to exceed one thousand dollars (\$1,000.)

Authority: T.C.A. §63-104-404(5); §63-10-504(b)(1).

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st October, 2000. (10-27)

TENNESSEE REGULATORY AUTHORITY - 1220

There will be a hearing before the Tennessee Regulatory Authority to consider the promulgation of rules and the amendment of rules pursuant to Tennessee Code Annotated, Section 65-2-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Hearing Room of the Tennessee Regulatory Authority Building, 460 James Robertson Parkway, Nashville, Tennessee at 1:30 p.m. on the 18th day of December, 2000.

Any individuals with disabilities who wish to participate in these proceedings should contact the Tennessee Regulatory Authority to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the agency's ADA Coordinator at 460 James Robertson Parkway, Nashville, TN 37243-0505, and (615) 741-2904.

SUBSTANCE OF PROPOSED RULES**AMENDMENTS**

Subparagraph (d) of Paragraph (2) of Rule 1220-4-2-.56 Verification of Orders for Changes for Long Distance Carriers is amended so that, as amended, the subparagraph shall read:

- (d) In the case of an asset transfer between two or more telecommunications service providers when a provider's customer base is included in the transfer, the Authority, upon petition by the acquiring carrier, may deem that sufficient notice has been given to the affected customers when the following criteria are met:
1. The Federal Communications Commission has issued an order granting a waiver of its Slamming Rules for the particular asset transfer transaction.
 2. A notification letter, pre-approved by the Authority, is mailed by U.S. First Class Postage by the carrier currently serving the customer describing the asset transfer and explaining to the customer that his/her local and/or long distance service will be transferred to the acquiring company by a date certain if the customer fails to select another provider. This customer notification shall be mailed to the customer no less than thirty (30) days prior to the actual asset transfer.
 3. The acquiring carrier agrees to pay any fees charged to the customer associated with changing to a new carrier. The notification letter required in 1220-4-2-.56 (2) (d) 2 shall inform the customer of this provision.
 4. The acquiring carrier agrees to not exceed the rates charged by the acquired carrier for a period not less than (ninety) 90 days after which any rate increase shall require thirty (30) days written notice, pre-approved by the Authority, to each affected customer explaining the increase. The notification letter mentioned in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.

Subparagraph (e) of Paragraph (2) of Rule 1220-4-2-.56 Verification of Orders for Changes for Long Distance Carriers is amended so that, as amended, the subparagraph shall read:

- (e) To provide evidence of a valid change order, telecommunications providers may elect to audio record the

verbal authorization obtained by the independent third party verifier under Rule 1220-4-2-.56(2)(c)(1). Failure to audio record or to produce such audio recording upon request of the Consumer Services Division of the Authority shall create a rebuttable presumption that the verbal authorization from the end user was not obtained.

Paragraph (2) of Rule 1220-4-2-.56 Verification of Orders for Changes for Long Distance Carriers is amended by adding the following new subparagraph so that, as amended, the subparagraph shall read:

- (f) All LOAs, recordings or any other evidence of change orders shall be maintained by the submitting carrier and the local exchange carrier for one year for dispute resolution and shall be provided to the Authority upon request.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of October, 2000. (10-17)

WILDLIFE PROCLAMATIONS

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

PROCLAMATION 00-21 AMENDING PROCLAMATION 00-15 PROCLAIMING ENDANGERED AND THREATENED SPECIES

Pursuant to the authority granted by Tennessee Code Annotated Sections 70-8-105 and 70-8-107, the Tennessee Wildlife Resources Commission hereby proclaims the following amendment to Proclamation 00-15 proclaiming Endangered and Threatened Wildlife by:

Amending Section I by inserting alphabetically, by scientific name, in the "Fish – Endangered" section:

Cumberland johnny darter	<i>Etheostoma nigrum susanae</i>	
Laurel Dace	<i>Phoxinus sp.</i>	MC

Amending Section I by inserting alphabetically, by scientific name, in the "Fish – Threatened" section:

Duck River Saddled Madtom	<i>Noturus sp. (=elegans)</i>	MC
Longhead Darter	<i>Percina macrocephala</i>	MC

Amending Section I. Endangered and Threatened Species by changing the footnote, "MC = Federal Mgt. Concern" to "MC = Management Concern, an unofficial indication that this species has been brought to federal attention for review for possible future federal listing"

Proclamation No. 00-21 received and recorded this 17th day of October, 2000. (10-08)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660**PROCLAMATION 00-22
AMENDING PROCLAMATION 00-14
PROCLAIMING WILDLIFE IN NEED OF MANAGEMENT**

Pursuant to the authority granted by Tennessee Code Annotated Sections 70-8-104 and 70-8-107, the Tennessee Wildlife Resources Commission hereby proclaims the following amendment to Proclamation 00-14 proclaiming Wildlife in Need of Management by:

Amending Section I by changing the footnote, "Federal Status-MC =Of Management Concern" to "MC= Management Concern, an unofficial indication that this species has been brought to federal attention for review for possible future federal listing"

Proclamation No. 00-22 received and recorded this 17th day of October, 2000. (10-09)

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CERTIFICATE OF APPROVAL

As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning October 2, 2000 and ending October 31, 2000.


RILEY C. DARNELL
Secretary of State