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RILEY C. DARNELL
Secretary of State

Division of Publications
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Department of State, Authorization No. 305084, 470 copies, March 2001. This public document was promulgated at a cost of \$ 2.00 per copy.

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.

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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.

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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 12.50 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 April 2001 is 9.36 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 5.36 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 February, 2001. 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. AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
02-01	Feb 9, 2001	0800 Labor and Workforce Development Division of Occupational Safety and Health	Rulemaking Hearing Rules	New Rules	<i>Chapter 0800-1-10 Sharps Injury Prevention</i> 0800-1-10-01 Purpose 0800-1-10-02 Scope and Application 0800-1-10-03 Definitions 0800-1-10-04 Exposure Control Plan 0800-1-10-05 Engineering and Work Practice Controls 0800-1-10-06 Availability of Lists	Michael M. Maenza Occupational Safety and Health Andrew Johnson Twr 3 rd Fl 710 James Robertson Pkwy Nashville, TN 37243-0659 (615) 741-7036	April 9, 2001
02-02	Feb 1, 2001	0620 Dept of Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-13-12 Bureau of TennCare</i> 1200-13-12-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits 1200-13-12-.12 Other Appeals by TennCare Applicants and Enrollees	George Woods Bureau of TennCare 729 Church St Nashville Tn 37247-6501 741-0145	April 17, 2001
02-08	Feb 15, 2001	1220 TN Regulatory Authority Consumer Services Division	Rulemaking Hearing Rules	Amendments	<i>Chapter 1220-4-11 Telephone Solicitation Regulations - Do Not Call Register</i> 1220-4-11-01 Definitions 1220-4-11-02 General Telephone Solicitation Regulations 1220-4-11-04 Telephone Solicitors Access to the TN Do Not Call Register 1220-4-11-07 Violation of the TN Do Not Call Register	Richard Collier TN Regulatory Authority 460 James Robertson Pkwy Nashville, TN 37343 (615) 741-2904	May 1, 2001
02-10	Feb 22, 2001	1200 Dept of Health TN Cancer Registry	Public Necessity Rules	Repeal and new rules	<i>Chapter 1200-7-2 Cancer Reporting System</i> 1200-7-2-01 Purpose 1200-7-2-02 Authority 1200-7-2-03 Definitions 1200-7-2-04 Participation in the Program 1200-7-2-05 Cancer Case Reporting 1200-7-2-06 Confidentiality 1200-7-2-07 Release of Information 1200-7-2-08 Request Procedure for Identifiable Data	Jerrold R. Daniels Dept of Health Cordell Hull Bldg 3rd Fl 425 Fifth Ave N Nashville, TN 37247 (615) 741-3111	February 22, 2001 through August 6, 2001
02-13	Feb 23, 2001	0620 Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-13-12 Bureau of TennCare</i> 1200-13-12-.04 Covered Services 1200-13-12-.10 Exclusions	George Woods Bureau of TennCare 729 Church St Nashville TN 37247-6501 615-741-0145	May 9, 2001

ANNOUNCEMENTS

SEQ	FILE DATE	DEPT. AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
02-23	Feb 28, 2001	0160 Auctioneer Commission	Rulemaking Hearing Rules	New Rules	<p><i>Chapter 0160-1 Regulations of Auctioneers</i> 0160-1-.16 Non-Auctioneer Firm License Application 0160-1-.17 Charity Auction Exemption 0160-1-.18 Electronic Media Auction License Requirement 0160-1-.19 Types of Auctions Defined 0160-1-.20 Advertising Guidelines 0160-1-.21 Disclosure of Buyer's Premium 0160-1-.22 Late Renewal of License 0160-1-.23 Retirement of License 0160-1-.24 Notification of Change of Information</p>	Christy A. Allen Regulatory Bds Commerce and Insurance 312 Eighth Ave N Snodgrass Twr 25 th fl Nashville, TN 37243 (615) 741-3072	May 14, 2001
02-24	Feb 28, 2001	0780 Dept of Commerce and Insurance Regulatory Bds TN Private Protective Services	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0780-5-2 Private Protective Services</i> 0780-5-2-.05 Fingerprinting 0780-5-2-.08 Applicants for Registration Cards 0780-5-2-.10 Certificates of Completion of Training 0780-5-2-.13 Monitoring of Training Programs 0780-5-2-.15 Authorized Weapons 0780-5-2-.22 Exemptions 0780-5-2-.23 Fees</p>	Danica S. Irvine Commerce & Insurance 312 Eighth Ave N Snodgrass Twr, 25 th Fl Nashville, TN 37243 (615) 741-3072	May 14, 2001

HEALTH FACILITIES COMMISSION - 0720**NOTICE OF BEGINNING OF REVIEW CYCLE**

Applications will be heard at the April 25, 2001 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 February 1, 2001. 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

+Williamson Imaging, LLC
2009 Mallory Lane
Franklin (Williamson Co.), TN 37067
Bryan S. Brand – (615)—343-4501
CN0101-005

The establishment of an outpatient diagnostic center and the initiation of magnetic resonance imaging, CT, fluoroscopy, ultrasound, mammography, x-ray and other diagnostic procedures. The facility will be located in leased space in the Cool Springs Surgery Center building, located at 2009 Mallory Lane, Franklin (Williamson County), Tennessee. Major medical equipment includes a 1.0 tesla MRI unit.
\$ 4,181,245

Methodist North Outpatient Cath Lab, LLC
1211 Union Avenue, Suite 700
Memphis (Shelby Co.), TN 38104
Jane Lucchesi – (901)—726-2981
CN0101-001

The establishment of a freestanding outpatient cardiac catheterization facility containing two outpatient cardiac catheterization labs. The proposed 8,000 square foot facility is to be located on the campus of the Methodist Healthcare-North Hospital Professional Office Building at 3950 New Covington Pike, Memphis, Tennessee.
\$ 4,029,000

NAME AND ADDRESS

Paracelsus Fentress County General Hospital, Inc.
 d/b/a Fentress County Hospital
 436 Central Avenue West
 Jamestown (Fentress Co.), TN 38556
 E. Graham Baker – (615)—383-3332
 CN0101-007

DESCRIPTION

The establishment of a 6-bed geriatric psychiatric unit at Fentress County General Hospital located at 436 Central Avenue West in Jamestown, Tennessee through the conversion of six (6) skilled nursing facility beds. This will result in an increase from seventy-one (71) to seventy-seven (77) beds to the hospital license and a decrease from fourteen (14) to eight (8) skilled nursing beds to the nursing home license.
 \$ 50,000

+BioImaging of Cool Springs, Inc.
 Aspen Brook Centre
 3310 Aspen Grove Drive
 Franklin (Williamson Co.), TN 37064
 Kurt V. Beasley – (615)—373-2500
 CN0101-008

The establishment of an outpatient diagnostic center, acquisition of a Magnetic Resonance Imaging (MRI) unit, and the initiation of magnetic resonance imaging. The facility will be located at 3310 Aspen Grove Drive, in Franklin, Williamson County, Tennessee and will consist of approximately 2,394 square feet of space. Major medical equipment will include the acquisition of an open-bore, Hitachi Altaire MRI system with a 0.7 strength tesla magnet.
 \$ 2,292,355

DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES - 0940**PETITION FOR RULEMAKING HEARING**

Re: Statewide abuse registry, 0940-1-4-.01 through 0940-1-4-.04, as published in the February 15, 2001 T.A.R.

On behalf of CMRA, an association of community providers for the developmentally disabled, I request that a rulemaking hearing be scheduled for the developmentally disabled, I request that a rulemaking hearing be scheduled for the above referenced proposed rules. CMRA has more than 25 members that will be affected by the proposed rule.

William B. Hubbard
Weed, Hubbard, Berry & Doughty, PLLC
Suntrust Bank Building
Nashville TN 37219

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

- 0620 - Department of Finance and Administration, Bureau of TennCare, Public necessity rules dealing with the Revised Consent Decree, rule 1200-13-12-.11 Appeal of Adverse Actions Affecting a TennCare Program Enrollee, 12 T.A.R. (December 2000) - Filed November 2, 2000; effective through April 16, 2001. (11-09)
- 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)

DEPARTMENT OF HEALTH - 1200

STATEMENT OF NECESSITY REQUIRING PUBLIC NECESSITY RULES

Tennessee Code Annotated §§68-1-1001 et seq. authorizes operation of the Cancer Reporting System administered by the Tennessee Cancer Registry of the Tennessee Department of Health. The purpose of the Cancer Reporting System is to acquire from hospitals, laboratories, facilities and health care practitioners information on patients diagnosed or treated with cancer in the state of Tennessee. The Tennessee Cancer Registry maintains a central surveillance data bank that is essential to developing a national comprehensive cancer prevention and control strategy. The funding for implementing this data bank is approximately 65% federal.

Public Law 102-515 passed by the 102d Congress established the National Program of Cancer Registries (NPCR) through which the Centers for Disease Control and Prevention (CDC) provides funding for the State of Tennessee to plan, implement, and improve its cancer data collection system. The goal of Public Law 102-515 is to standardize the reporting of cancer cases throughout the United States. To achieve this goal, and to remain eligible for future grants under the NPCR, Tennessee must meet certain federal standards. The federal law requires a state program to have the necessary elements in place, including promulgation of State regulations, in order to apply for the federal grant funds by the end of February, 2001. In order to implement the program fully in Tennessee, these rules are required. Failure to show in the application that the program is in place with the accompanying rules to implement the program will jeopardize the federal grant application and the award of the funds in the future.

CDC requires federally funded cancer registries to have at least 95% case ascertainment, a minimum of 95% data accuracy, 95% of the data collected within six months of the date of diagnoses, and useable data within two years of the date of diagnosis. Immediate promulgation of these public necessity rules is needed to satisfy these requirements and to enable Tennessee to better accomplish the following tasks:

- make appropriate public health policy decisions
- design a cancer control program for Tennessee
- monitor trends in cancer incidence
- determine populations at risk
- respond to the public regarding cancer public health concerns
- evaluate the impact of intervention efforts
- plan for future health care needs
- conduct research and prioritize health resource allocations.

In summary, the promulgation of these public necessity rules would satisfy federal requirements and give legislators, health department officials, medical researchers, and the general public more reliable data for use in making critical health care decisions.

Richard Urbano, Ph.D., Assistant Commissioner
Policy Planning and Assessment
Department of Health

For a copy of this rule, contact Toni H. Bounds, Ph.D., Program Director, Tennessee Cancer Registry, Policy Planning and Assessment, Department of Health, Cordell Hull Building, 425 5th Avenue, North, 4th Floor, Nashville, Tennessee 37247, phone (615) 532-7903, TBounds@mail.state.tn.us

**PUBLIC NECESSITY RULES
OF
TENNESSEE CANCER REGISTRY
TENNESSEE DEPARTMENT OF HEALTH**

**CHAPTER 1200-7-2
CANCER REPORTING SYSTEM**

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1200-7-2-.04 Participation in the Program	1200-7-2-.08 Request Procedure for Identifiable Data

1200-7-2-.01 PURPOSE

- (1) The purpose of these regulations is to provide for the implementation of the Tennessee Cancer Reporting System Act of 1983 and its amendments requiring all hospitals, laboratories, facilities, and health care practitioners, as defined in the Act, to report certain cancer information to the Department of Health, as well as to provide for the confidentiality of certain information, and for the data to be made available to the public.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.02 AUTHORITY

- (1) The regulations are issued under the authority granted the Commissioner of the Tennessee Department of Health under the Cancer Reporting System Act of 1983 and its amendments, hereinafter referred to as the Act.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.03 DEFINITIONS

- (1) "Cancer" means and includes, but is not limited to:
 - (a) a large group of diseases characterized by uncontrolled growth and spread of abnormal cells;
 - (b) any condition of tumors having the properties of anaplasia, invasion, and metastasis;
 - (c) a cellular tumor, the natural course of which is fatal;
 - (d) malignant neoplasm; and
 - (e) in-situ cancer.
- (2) "Data" shall mean the original information contained on the report required by the regulations.
- (3) "Commissioner" means the Commissioner of the Department of Health.
- (4) "Department" shall mean the Tennessee Department of Health, or "department," as used in the Act.
- (5) "Hospital" means an institution as defined by T.C.A. 68-11-201.
- (6) "Laboratory" means a facility where tests are performed identifying anatomical and cytological changes, and where specimens are interpreted and pathological diagnoses are made.
- (7) "Facility" means a health care facility in which diagnosis or treatment services are provided to patients with cancer, including, but not limited to, an ambulatory surgical treatment center, a freestanding cancer treatment center, a radiation therapy center, a chemotherapy treatment center, a nursing home, an oncology or dermatology clinic, a laboratory, or any other facility which provides screening, detection, diagnostic or therapeutic services to patients with cancer.
- (8) "Health care practitioner" means a physician, surgeon, or other health care professional licensed under T.C.A. Title 63 who is engaged in diagnosing and/or treating patients who have cancer.
- (9) "Tennessee Cancer Registry" or "Registry" or "TCR" shall mean the program in the Tennessee Department of Health that administers a population-based statewide cancer registry.
- (10) "Person" means any member of the "medical, scientific, and academic research community."
- (11) "Medical records" means any information that could lead to the identification of a patient who has been diagnosed or treated for cancer, including but not limited to, pathology reports, cytology reports, radiology reports, and disease index for both inpatients and outpatients.

- (12) "Policies and Procedures Manual" means the document(s) maintained in the offices of the Tennessee Cancer Registry giving specific written instructions for the implementation of policies and procedures utilized by the Registry.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.04 PARTICIPATION IN THE PROGRAM

- (1) All hospitals, laboratories, facilities and health care practitioners shall report information concerning Tennessee patients who are diagnosed and/or treated for cancer.
- (2) Health care practitioners are not required to report information on cancer patients who are directly referred to or have been previously admitted to a hospital or a facility for cancer diagnosis or treatment.
- (3) All hospitals, laboratories, facilities and health care practitioners shall designate one (1) staff member to be responsible for reporting the cancer information and shall notify the department of the name, title, work address, work telephone number, and email address (if available) of the designated staff member.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.05 CANCER CASE REPORTING.

- (1) Reportable Cancer Cases
 - (a) Any newly diagnosed in-situ or invasive cancer as defined by the TCR Policies and Procedures Manual is considered a reportable diagnosis. If a patient subsequently develops a new primary cancer, it shall be reported separately.
- (2) Format for Reporting
 - (a) The format for reporting, the required codes, and the standards for completeness and quality are defined by the department in the TCR Policies and Procedures Manual.
- (3) Data Items to be Reported
 - (a) The standardized report of cancer shall include as a minimum those data items required by the Tennessee Cancer Registry, a list of which is maintained in the TCR Policies and Procedures Manual. The report of cancer shall include the listed demographic, diagnostic, and treatment information as defined by the department.
- (4) Deadline for Reporting
 - (a) Reporting shall occur no later than six months after the date of diagnosis of cancer in a patient. Reports shall be submitted to the department according to a time frame communicated by the department to each hospital, facility, laboratory, and health care practitioner.
- (5) Failure to Report

- (a) A hospital, laboratory, facility, or health care practitioner that fails to report information or allow access to records, as required by T.C.A. 68-1-1003, shall be informed in writing by the department that compliance is mandatory.
 - (b) If a hospital, laboratory, facility, or health care practitioner fails to provide the required information in the format specified by the department or if the data are of unacceptable quality, the Commissioner or the Commissioner's authorized representative may enter the facility to casefind and abstract the information. In these cases, the facility shall reimburse the department for the actual cost of casefinding, abstracting, coding and editing, a maximum of which is fifty dollars (\$50) per case. A hospital, laboratory, facility or health care practitioner from whom reimbursement is sought may appeal the assessment of expenses under the Tennessee Uniform Administrative Procedures Act.
- (6) Quality Assurance
- (a) Staff members from the Tennessee Cancer Registry or their agents shall perform periodic quality assurance studies at all reporting facilities. These studies shall include:
 - 1. casefinding to ensure that all cancer cases have been accessioned; and
 - 2. reabstracting the records of cancer patients to ensure that all data have been transcribed and coded correctly.
 - (b) Reporting facilities shall assist TCR staff by providing the necessary medical records and the office space for conducting quality assurance activities.
 - (c) In order to improve the quality of the data, the TCR or their agents shall offer training for reporting facility personnel.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.06 CONFIDENTIALITY

- (1) T.C.A. 68-1-1006 provides for the confidentiality of data obtained from the reports of cancer patients.
- (2) TCR Responsibilities
 - (a) The commissioner shall take strict measures to ensure that all identifiable information is treated as confidential and privileged. All employees or consultants, including auditors of the TCR, shall sign a Tennessee Cancer Registry Employee Confidentiality Pledge and these signed pledges shall be kept on file. An employee who discloses confidential information willfully or through negligence is subject to penalty, including, but not limited to, the penalty in T.C.A. 68-1-1009.
- (3) Protection of Report Sources
 - (a) Hospitals, laboratories, facilities, or health care practitioners who disclose cancer information to the Tennessee Cancer Registry or its employees in conformity with the Cancer Reporting System Act of 1983 and its amendments shall not be held liable for the release of such information to the department.
- (4) Protection of Identifiable Data Obtained by Special Studies and Other Research Studies

- (a) All identifiable data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured or prepared by employees or agents of the Tennessee Cancer Registry shall be used solely for statistical, scientific and medical research purposes and shall be held strictly confidential by the TCR. This applies also to data procured by any other person, agency, or organization, including public or private colleges and universities acting jointly with the TCR in connection with special cancer studies and health research investigations.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.07 RELEASE OF INFORMATION

- (1) Release of non-identifiable data
 - (a) To federal agencies:
 1. The TCR is authorized to collaborate with the National Program of Cancer Registries (NPCR), the Centers for Disease Control and Prevention (CDC), and the National Cancer Institute (NCI) to provide cancer incidence statistics and participate in cancer studies.
 - (b) To the Tennessee Department of Health
 1. The Tennessee Cancer Registry shall work closely with the Tennessee Department of Health in investigating cancer-related issues and in evaluating programs. Because the TCR data are an integral part of the Tennessee Department of Health cancer prevention and control programs, the use of Registry data by public health officials shall be considered an in-house activity. Data required by the Tennessee Department of Health for responding to concerns expressed about threats to the public health shall receive priority in determining the order of processing requests.
 - (c) To the general public:
 1. Public reports published by the Tennessee Cancer Registry shall include aggregate, not identifiable data. Information that would potentially identify a cancer patient shall not be published. Non-identifiable data may be made available to the general public upon request to the department. The availability of any data shall depend upon the department's financial or other ability to comply with such requests. The Registry shall respond to public requests as quickly as possible, subject to staffing constraints.
 - (d) To Others:
 1. The TCR is authorized to collaborate with the North American Association of Central Cancer Registries (NAACCR) to provide cancer incidence statistics and participate in cancer studies.
- (2) Release of identifiable data
 - (a) Identifiable data collected from any hospital, laboratory, facility, or health care practitioner may be released to qualified persons for the purposes of cancer prevention, control, and research provided that each request for identifiable data follows the established procedure outlined in the TCR Policies and Procedures Manual and receives prior approval by the department. Identifiable information that is collected solely by the Tennessee Cancer Registry for its own special studies shall not be released.
- (3) Annual Report

- (a) A statistical report shall be prepared at the completion of each year's data collection cycle and will be distributed as requested.
- (4) Interstate Exchange of Data
- (a) Because cancer patients may be diagnosed or receive treatment in another state, the Commissioner or the Commissioner's authorized representative is authorized to sign agreements with other states to acquire cancer data concerning Tennessee residents and, in return, to provide those states with data relating to their residents. Each signatory state shall agree in writing to keep all patient information confidential and privileged as defined in the contract for data exchange, a copy of which is included in the TCR Policies and Procedures Manual.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.08 REQUEST PROCEDURE FOR IDENTIFIABLE DATA.

- (1) Requests for identifiable data shall be reviewed and approved by the department according to the policies of the Tennessee Department of Health and the Tennessee Cancer Registry.
- (2) The Tennessee Cancer Registry shall review requests for data and shall recommend to the commissioner whether to approve or deny any data request. The commissioner shall approve or deny any data request after considering the reason for such request and the planned use of the data.
- (3) A detailed description of the procedures for requesting identifiable data can be obtained from the Tennessee Cancer Registry.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

REPEALS

Rule 1200-7-2 is repealed in its entirety.

The public necessity rules set out herein were properly filed in the Department of State on the 22nd day of February, 2001, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 6th day of August, 2001. (02-10)

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RULEMAKING HEARINGS

DEPARTMENT OF CHILDREN'S SERVICES - 0250 ADMINISTRATIVE PROCEDURES DIVISION

There will be a hearing before the Tennessee Department of Children Services to consider promulgation of rules pursuant to T.C.A. § 37-5-112. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204 and will take place in conference room B on the seventh floor of the Cordell Hull Building located at 436 6th Avenue North, Nashville, Tennessee, 37243 at 1:30 p.m., central standard time on the 10th day of May, 2001.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Children's Services to discuss any auxiliary aids of services needed to facilitate 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 of Children's Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Children's Services ADA Coordinator, Maggie Winbush, Personnel Analyst 3, at 7th floor of the Cordell Hull Building, 436 6th Avenue North, Nashville, Tennessee, 37243, 615-741-9175.

For a copy of this notice of rulemaking hearing, contact Gail B. Howell, Director of Administrative Procedures, 7th Floor, Cordell Hull Building, 436 6th Avenue North, Nashville, TN 37243-1290. (615) 532-2452.

SUBSTANCE OF PROPOSED RULES

RULES OF THE TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES ADMINISTRATIVE PROCEDURES DIVISION

CHAPTER 0250-5-1 INTRODUCTION

TABLE OF CONTENTS

0250-5-1-.01	Grievances.	0250-5-1-.03	Legal Base.
0250-5-1-.02	Agency Rule-making.		

0250-5-1-.01 GRIEVANCES.

- (1) When an applicant for, or recipient of, services is dissatisfied with any action taken by the Department of Children's Services which is within the discretion and control of the Department of Children's Services, he/she has the absolute right to appeal for a fair hearing by an impartial official, provided that actions taken pursuant to judicial order or which are the subject of pending judicial proceedings shall not be subject to review by a fair hearing.

Authority: T.C.A. §§4-509 and 4-5-207.

0250-5-1-.02 AGENCY RULE MAKING.

- (1) The rules of practice for the service programs provided by the Tennessee Department of Children's Services are not valid or effective against any person or party, nor may they be invoked by the agency for any purpose, until all of the requirements for rulemaking as set forth by the Tennessee Uniform Administrative Procedures Act (as amended) have been met.

Authority: T.C.A. §4-5-207.

0250-5-1-.03 LEGAL BASE

- (1) Tennessee's Public Welfare statutes and the Federal statutes of the Social Security Act require that there be provisions for appeals and fair hearings for applicants and recipients of services provided by the Department. The Tennessee Department of Children's Services is responsible for fulfillment of hearing provisions in the programs of this Department which provide for the hearings before the State Department. Such hearings shall meet the due process standards set forth in the US Supreme Court decision in *Goldberg v. Kelly*, 397 US 245 (1970) and the standards set forth in the Federal Regulations.
- (2) The Civil Rights Act of 1964 prohibits discrimination in the provision of services to applicants, recipients, or beneficiaries because of their race, color, or national origin.
- (3) The Tennessee Uniform Administrative Procedures Act (as amended), T.C.A. §4-5-301 et seq., requires the use of uniform procedures for the conduct of hearings on appeals held by all state agencies of Tennessee.
- (4) The Tennessee Uniform Procedures Act (as amended), T.C.A. §4-5-101 et seq., provides for the use of uniform procedures for agency rulemaking.

**CHAPTER 0250-5-2
DEFINITIONS**

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0250-5-2-.01 Definitions

0250-5-2-.01 DEFINITIONS

- (1) The following words and terms as used in the rules for the Administrative Procedures Division shall have the meaning hereinafter ascribed to them:
 - (a) Administrative Judge – An Administrative Judge is an impartial official of the Department of Children's Services who is licensed to practice law and is designated by the Commissioner or his/her designated representative to conduct contested case proceedings pursuant to T.C.A. 4-5-301. The staff member so designated shall have no direct involvement in the action under consideration prior to filing of the appeal.
 - (b) Agency - The agency is the Tennessee Department of Children's Services.

- (c) Appeal - An appeal is a procedure for bringing grievances which cannot be resolved in the local office to the State Office for a hearing.
- (d) Appellant - An appellant is an individual who is dissatisfied with an action of the Department in regard to the furnishing or denial of services and who, as a result, is requesting a fair hearing before the State Office.
- (e) Applicant for Services - An applicant for services shall be the person on whose behalf a service is sought from a Service Program of the Department of Children's Services, even though some other person may request the service and/or may incidentally benefit from the service. The applicant for services to children, including but not limited to adoption services, foster care services and child protective services shall be the child for whose benefit the service is sought.
- (f) Commissioner - The Commissioner is the Commissioner of the Tennessee Department of Children's Services.
- (g) Department - The Department is the Tennessee Department of Children's Services.
- (h) Fair Hearing - A fair hearing is a proceeding before an impartial official designated by the Commissioner of the Department of Children's Services in which an appellant or his/her representative may present his/her case, with or without witnesses, to show why action or inaction by the county, area or regional office should be corrected.
- (i) File - To file a document relating to a Fair Hearing with this department is to deliver that document to the proper officer or official. A hearing request, or appeal, is not filed until it is received by the Administrative Procedures Division of this department.
- (j) Hearing Officer - A Hearing Officer is an impartial official of the Department of Children's Services who is not licensed to practice law and is designated by the Commissioner or his/her designated representative to conduct contested case proceedings pursuant to T.C.A. §4-5-301. The staff member so designated shall have no direct involvement in the action under consideration prior to filing the appeal.
- (k) Local Office - A local office is the departmental office having jurisdiction over the case, primarily the county office,
- (l) Party - A party means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.
- (m) Person - A person means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character, including another agency.
- (n) Rule - A rule means each agency statement of general applicability that implements or prescribes law or policy or describes the procedures or practice requirements for any agency. The term includes the amendment or repeal of a prior rule, but does not include:
 - 1. statements concerning only the internal management of an agency and not affecting private rights, privileges or procedures available to the public; or
 - 2. declaratory rulings issued pursuant to T.C.A. §4-5-223; or
 - 3. intra-agency memoranda; or

4. general policy statements which are substantially repetitious of existing law.
- (o) Services Programs - The service programs encompass Social Services (Direct Services and Third Party Services)
- (p) Recipient of Services - The recipient of services is the person for whose benefit services are provided by a service program of the Department of Children's Services. The recipient of services for children, including but not limited to adoption services, foster care services, and child protective services, shall be the child for whose benefit the service is being provided.

Authority: T.C.A. §s 4-5-102, 4-5-223, 4-5-301.

CHAPTER 0250-5-3 FAIR HEARING REQUESTS

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0250-5-3-.01 Right to Appeal	0250-5-3-.04 Dismissal of Hearing Requests
0250-5-3-.02 Information Regarding Right to Appeal	0250-5-3-.05 Group Hearings
0250-5-3-.03 Time Limit for Filing an Appeal	

0250-5-3-.01 RIGHT TO APPEAL.

- (1) An applicant or recipient of services, or his/her authorized representative on his/her behalf, has a right to appeal any action taken by the Department in regard to the services for which he/she has applied, is receiving, or which have been terminated. Grievances shall be addressed to the Department's interpretations of the law and the validity and applicability of the policies promulgated under the law as they apply to the applicant's or recipient's individual situation. Grievances may also be addressed wherein the sole issue is one of protest of State or Federal laws, policies, or regulations.
- (2) The applicant, or recipient, or his/her representative shall request a hearing by any clear expression, oral or written.

Authority: T.C.A. §4-5-102.

0250-5-3-.02 INFORMATION REGARDING RIGHT TO APPEAL.

- (1) Every applicant or recipient shall be informed at the time of application and at the time of any action affecting his/her entitlement to services:
 - (a) of his/her right to a Fair Hearing;
 - (b) of the method by which he/she may obtain a hearing;
 - (c) of his/her right to be represented by an authorized representative, such as legal counsel, relative, or friend. Information and referral services shall be provided to help claimants make use of any legal services available in the community that can provide legal representation at the hearing.
- (2) A ten (10) day advance notice in writing shall be given to recipients in cases of intended action to discontinue, terminate, suspend, or reduce services.

Authority: T.C.A. §4-5-301.

0250-5-3-.03 TIME LIMIT FOR FILING AN APPEAL.

- (1) Appeals or requests for a hearing will be accepted only if they are filed within the required time limit unless good cause can be shown as to why the appeal or request for a hearing could not be filed within the required time limit.
- (2) Appeals will be accepted only if they are filed within ten (10) days after the mailing date of the written notice of the action unless good cause can be shown as to why the appeal could not be filed within the time limit.
- (3) The time limits shall be computed by excluding the first day and including the last, unless the last day is a Saturday, a Sunday, or legal holiday, in which case the last day shall be the first day following the Saturday, Sunday, or legal holiday which is not itself a Saturday, a Sunday, or a legal holiday.

**CHAPTER 0250-5-4
NOTICE OF THE HEARING**

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0250-5-4-.01 Notice.	0250-5-4-.03 Subpoenas for Evidence and Witnesses.
0250-5-4-.02 Pre-hearing Conference.	

0250-5-4-.01 NOTICE.

- (1) The hearing shall be conducted at a reasonable time, date, and place after adequate written notice has been given to the appellant by the Administrative Judge/Hearing Officer.
- (2) The notice shall include:
 - (a) Date, place, and nature of the hearing with instructions to the appellant to notify the county office if he/she is unable to meet the appointment
 - (b) A statement of the legal authority under which the hearing is held, including a reference to the particular §§ of the statutes and rules involved.
 - (c) A short and plain statement of the matters asserted. The notice will define the issues and will refer to detailed statements of the matters involved, to be found in the appeal summary that is prepared by the county office and which will be made available to the appellant prior to the hearing.
 - (d) Information about hearing procedures.
 - (e) The appellant’s option to present his/her case or be represented by a lawyer or another authorized person.
 - (f) The appellant’s right to inspect the files of the agency with respect to the matter under appeal and to copy there from.

- (g) The appellant’s right to present written evidence and testimonies and to bring witnesses and members of his/her family to the hearing.
- (h) The process by which an appellant may petition for reconsideration of an initial or final order.
- (i) The process by which an appellant may appeal an initial order.
- (j) The appellant’s right to judicial review, If he/she is dissatisfied with the final order entered on his/her appeal.

Authority: T.C.A. §4-5-307.

**CHAPTER 0250-5-5
THE ADMINISTRATIVE JUDGE/HEARING OFFICER**

TABLE OF CONTENTS

0250-5-5-.01 Role	0250-5-5-.04 Initial Order
0250-5-5-.02 Authority	
0250-5-5-.03 Ruling of Administrative judge/Hearing Officer on Continuation of Benefits Pending the Final Decision	

0250-5-5-.01 ROLE.

- (1) The Commissioner of the Department of Children’s Services has placed responsibility for hearings in the Administrative Procedures Division of the Department of Children’s Services . The Administrative Judge/Hearing Officer in the Administrative Procedures Division is vested with full authority in the conduct of the hearing process. The Administrative Judge/Hearing Officer is fully responsible for conducting hearings properly and promptly in accordance with the rules and regulations established by the Department.

Authority: T.C.A. §4-5-312.

0250-5-5-.02 AUTHORITY.

- (1) The Administrative Judge/Hearing Officer shall have the authority to do the following:
 - (a) Schedule the hearing and conduct the hearing;
 - (b) Administer oaths;
 - (c) Issue subpoenas;
 - (d) Rule upon offers of proof;
 - (e) Regulate the course of the hearing;
 - (f) Set the time and place for continued hearings;

- (g) Write an initial order stating his/her decision; and
- (h) Rule on petitions for reconsideration of the initial order.

Authority: T.C.A. §4-5-312.

0250-5-5-.03 RESERVED

0250-5-5-.04 INITIAL ORDER

- (1) The initial order by the Administrative Judge/Hearing Officer shall be based exclusively on evidence and other material introduced at the hearing. The hearing report shall be available to the appellant or his representative within a reasonable time. The report shall include:
 - (a) all pleadings, motions, and intermediate rulings;
 - (b) exhibits;
 - (c) a summary of the oral testimony plus all other evidence received or considered;
 - (d) stipulations and admissions;
 - (e) a statement of matters officially noted;
 - (f) questions and offers of proof, objections, and rulings thereon not addressed at the hearing;
 - (g) the reasons for the decision and the supporting evidence and regulations;
 - (h) findings of fact and conclusions of law;
 - (i) a statement of the available procedures and time limits for petitioning for reconsideration and/or appeal.
- (2) The initial order shall be served on all parties of record.
- (3) The initial order will be reviewed by the Commissioner or his/her designated representative prior to the entering of a final order.

Authority: T.C.A. § 4-5-314.

**CHAPTER 0250-5-6
CONDUCT OF THE HEARING**

TABLE OF CONTENTS

0250-5-6-.01 Rules of Evidence.	0250-5-6-.03 Ex Parte Communication.
0250-5-6-.02 Examination of Case File.	0250-5-6-.04 Discovery.

0250-5-6-.01 RULES OF EVIDENCE.

- (1) The agency shall admit and give probative effect to evidence admissible in a Court and, when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible there under may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The agency shall give effect to the rules of privilege recognized by law and shall exclude evidence which in its judgment is irrelevant, immaterial, or unduly repetitious.
- (2) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the agency.
- (3) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge.
- (4) Every party shall have the right to present evidence, to make arguments, and to confront and cross-examine witnesses.

Authority: T.C.A. §4-5-313.

0250-5-6-.02 EXAMINATION OF CASE FILE.

- (1) Any party to a contested case shall have the right to examine Department manuals and the contents of the case file with respect to the matter being Contested, and all documents and records used as evidence, at a reasonable time either before the date of the hearing or during the hearing. The case record and manuals shall not be removed from the local office. However, any party or his/her representative may copy entries or documents to be introduced at the hearing as supporting evidence.

Authority: T.C.A. §4-5-311.

0250-5-6-.03 EX PARTE COMMUNICATION.

- (1) Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in an appeal shall not communicate directly or indirectly in connection with any issue involved in such proceeding with any person except upon notice and opportunity for all parties to participate, except an agency member may communicate with other members of the agency, members of the Attorney General's staff or his personal assistants.

Authority: T.C.A. §4-5-304.

0250-5-6-.04 DISCOVERY.

- (1) Any party to a contested case shall have the right to reasonable discovery pursuant to T.C.A. §4-5-311. March, 1983 (Revised)

**CHAPTER 0250-5-7
THE HEARING RECORD****TABLE OF CONTENTS**

0250-5-7-.01 Time frames
0250-5-7-02 Contents of Record

0250-5-7-.03 Record of Oral Proceedings
0250-5-7-.04 Basis for Agency Action

0250-5-7-.01 CONTENTS OF RECORD.

- (1) The agency shall maintain an official record of each contested case for a period of not less than three (3) years.

Authority: T.C.A. § 4-5-319.

0250-5-7-.02 AGENCY RECORD

- (1) The agency record shall consist solely of:
 - (a) Request for fair hearing
 - (b) Appeal Summary
 - (c) Notice of all proceedings
 - (d) Any pre-hearing order;
 - (e) Any motions, pleadings, briefs, petitions, requests and intermediate rulings;
 - (f) Evidence received or considered;
 - (g) A statement of matters officially noticed;
 - (h) Proffers of proof and objections and rulings thereon not addressed during the course of the hearing;
 - (i) The tape recording, stenographic notes or symbols, or transcript of the hearing;
 - (j) The initial order, final order and any order on appeal or reconsideration;
 - (k) Matters placed on the record after an ex parte communication.

- (l) All staff memoranda or data submitted to the Administrative Judge/Hearing Officer or members of the agency in connection with their consideration of the case unless prepared and submitted by personal assistants and not inconsistent with T.C.A. §4-5-304(b).

0250-5-7-.03 RECORD OF ORAL PROCEEDINGS

- (1) A record (which consists of a tape or similar electronic recording) shall be made of all oral proceedings. Such record or any part thereof shall be transcribed on request of any party at his expense or may be transcribed by the agency at its expense. This record shall be maintained for a period of time, not less than three (3) years.

0250-5-7-.04 BASIS FOR AGENCY ACTION

- (1) Unless otherwise provided for by this § or a state statute, the agency record shall constitute the exclusive basis for agency action in adjudicative proceedings under these rules, and for judicial review thereof.

Authority: T.C.A. § 4-5-319.

CHAPTER 0250-5-8 THE FINAL ORDER

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0250-5-8-.01 Time Limitation	0250-5-8-.04 Public Access to Final Order
0250-5-8-.02 Consideration of the Entire Record	0250-5-8-.05 Reinstatement of Assistance or Services
0250-5-8-.03 The Final Order	0250-5-8-.06 Recovery When the Final Order Upholds the Local Office

0250-5-8-.01 TIME LIMITATION

- (1) The maximum time limit for processing appeals is forty-five (45) days for Foster Care removals and ninety (90) days for Adoption Assistance and Indicated Child Abuse cases. The postponement of a scheduled hearing shall not exceed thirty (30) days, and the time limit for processing the appeal shall be extended because of:
 - (a) Illness of the appellant;
 - (b) because of circumstances beyond the control of the appellant or the Department.
- (2) The time limit applies to the period extending from the date the request is received by the Department until the date the initial order is entered.

Authority: T.C.A. §4-5-301.

0250-5-8-.02 CONSIDERATION OF THE ENTIRE RECORD.

- (1) Before the final order is entered, the entire record shall be considered by the Commissioner or his/her designated representative, provided, however, that such hearing authority may rely on accurate summaries of testimony and evidence, prepared by the hearing officer and contained in the hearing report, as provided in 0250-5-7-.01.

Authority: T.C.A. §4-5-314.

0250-5-8-.03 THE FINAL ORDER.

- (1) The final authority is the Commissioner of the Department of Children’s Services or his/her designated representative. The final order shall be binding upon all parties.
- (2) The final order in a contested case shall be in writing and shall be made available to each party.
- (3) The final order must include a statement of the available procedures and time limits for seeking reconsideration and/or judicial review.

0250-5-8-.04 PUBLIC ACCESS TO FINAL ORDERS

- (1) The report of the hearing and the final order will remain on file in the local office for any further inspection as may be needed by the parties or their representatives.

0250-5-8-.05 RESERVED

0250-5-8-.06 RESERVED

**CHAPTER 0250-5-9
RECONSIDERATION**

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0250-5-9-.01	Notice of Right to a Petition for Reconsideration and/or Appeal of the Initial Order	0250-5-9-.03	Effect on the Final Order
0250-5-9-.02	Notice of Right to a Petition for Reconsideration Final of a Final Order	0250-5-9-.04	Grounds for Reconsideration
		0250-5-9-.05	Administrative Recourse When Aggrieved By Order

0250-5-9-.01 NOTICE OF RIGHT TO A PETITION FOR RECONSIDERATION AND/OR APPEAL OF THE INITIAL ORDER

- (1) Written notice of the right to Petition for Reconsideration and/or appeal is to accompany the initial order mailed to the parties. Any party, within fifteen (15) days after entry of an initial order, may file a Petition for Reconsideration with the Administrative Judge/Hearing Officer stating the specific grounds upon which relief is requested. A petition for appeal from an initial order must be filed with the Commissioner or his/her designated representative within fifteen (15) days after entry of an initial order or disposition of the petition for reconsideration. If an initial order is subject to both a timely Petition for Reconsideration and appeal, the petition for reconsideration shall be disposed of first; and a new fifteen (15) day period shall start to run upon disposition of the Petition for Reconsideration.

Authority: T.C.A. §§4-5-315 and 4-5-317.

0250-5-9-.02 NOTICE OF RIGHT TO A PETITION FOR RECONSIDERATION OF A FINAL ORDER

- (1) Written notice of the right to petition for reconsideration of the final order is to accompany the final order to the parties. Any party who feels aggrieved by a final order, may, within fifteen (15) days following the date of the order, file a written petition for reconsideration which shall specify in detail the reasons for the request.

Authority: T.C.A. §4-5-317.

0250-5-9-.03 EFFECT ON THE FINAL ORDER.

- (1) The filing of a petition for reconsideration of the final order shall not supersede or delay the effective date of the final order and said order shall take effect on the date entered by the agency and shall continue in effect until such petition shall be granted or until said order shall be superseded, modified, or set aside in a manner provided by law. However, if a change in circumstances occurs while the reconsideration is pending, action to implement that change will not be delayed pending the decision.

Authority: T.C.A. §4-5-318.

0250-5-9-.04 GROUNDS FOR RECONSIDERATION

- (1) The Administrative Judge/Hearing Officer or the Commissioner or his/her designated representative, who rendered the initial or final order, which is the subject of the petition, shall, within twenty (20) days of receiving the petition, enter a written order either denying the petition; granting the petition and setting the matter for further proceedings; or granting the petition and issuing a new initial or final order. If no action has been taken on the petition within twenty (20) days, the petition shall be deemed to have been denied at the expiration of the twenty (20) day period.
- (2) An order granting the petition and setting the matter for further proceedings shall state the extent and scope of the proceedings which shall be limited to argument upon the existing record; and no new evidence shall be introduced, unless the party proposing such evidence shows good cause for his failure to introduce the evidence in the original proceeding.

Authority: T.C.A. §4-5-317.

**CHAPTER 0250-5-10
JUDICIAL REVIEW**

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0250-5-10-.01 Notice of Entitlement to Judicial Review

0250-5-10-.02 Method for Filing

0250-5-10-.01 NOTICE OF ENTITLEMENT TO JUDICIAL REVIEW.

- (1) Written notice of entitlement to judicial review is to accompany the final order to the appellant and/or recipient. The notice is to be to the effect that a person who is aggrieved by a final order in a contested hearing has the right to request judicial review within sixty (60) days after the entry of the agency's final order thereon.

Authority: T.C.A. §4-5-322.

0250-5-10-.02 METHOD FOR FILING.

- (1) Proceedings for review are instituted by filing a petition for review in a Chancery Court of Tennessee having jurisdiction within sixty (60) days after the final order by the Commissioner or his/her designated representative. Provisions of T.C.A. §4-5-322 are to be applied in proceedings for judicial review.

Authority: T.C.A. §4-5-322.

0250-5-11 RESERVED

0250-5-12 RESERVED

AMENDMENTS

Paragraph (1) of rule 0250-5-13.07 (Time Limitation) is amended by changing the last sentence, so that, as amended, the paragraph shall read:

0250-5-13-.07 TIME LIMITATION.

- (1) Except as may be specifically waived in writing by both the foster parent(s) and the Commissioner or his/her designated representative, the maximum time limit for processing an appeal regarding removal of a child from a foster family home is forty-five (45) days. This time limit begins to run on the date the request for appeal is received by the Department and ends on the date the Initial Order is mailed to the foster parent(s).

Authority: T.C.A. §§4-5-226(b)(2); 4-5-301; 71-1-105(5)(12); 37-5-101; 37-5-105; 37-5-106 and 37-5-112(a).

The notice of rulemaking set out herein was properly filed in the Department of State on the 23rd day of February, 2001. (02-12)

**TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES - 0250
COMMUNITY SERVICES AGENCY**

There will be a hearing before the Tennessee Department of Children Services to consider promulgation of rules pursuant to T.C.A. §§ 37-5-112(a) and 37-5-301 et seq. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204 and will take place in room 7A on the 7th floor of the Cordell Hull Building located at 436 6th Avenue North, Nashville, Tennessee, 37243 at 10:00 a.m., central standard time on the 29th day of May, 2001.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Children's Services to discuss any auxiliary aids of services needed to facilitate 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 of Children's Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Children's Services ADA Coordinator, Maggie Winbush, Personnel Analyst 3, at 7th floor of the Cordell Hull Building, 436 6th Avenue North, Nashville, Tennessee, 37243, 615-741-9175.

For a copy of this notice of rulemaking hearing, contact: Pat Hager, CSA Coordinator, on the 7th floor of the Cordell Hull Building, 436 6th Avenue North, Nashville, Tennessee, 37243, 615-532-5574.

SUBSTANCE OF PROPOSED RULES

**RULES
OF THE
TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES**

**CHAPTER 0250-7-6
COMMUNITY SERVICES AGENCY RULES AND REGULATIONS**

NEW RULES

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0250-7-6-.02	Definitions	0250-7-6-.05	Administrative and Financial
0250-7-6-.04	Amendments, Revisions and Waivers of the Plan of Operation		

0250-7-6-.01 GENERAL PROVISIONS

- (1) The Community Services Agency Act of 1996 established a mechanism to facilitate the provision of services for children and other citizens in need of services in Tennessee through centralized agencies located throughout the state. The Community Services Agency (CSA) may contract with the Department of Children's Services and other agencies to provide assistance wherever needed.
- (2) This Act authorizes the Commissioner of the Department of Children's Services to establish metropolitan and rural CSAs. The Act also authorizes the Commissioner to promulgate rules and regulations, including those governing the approval of contracts for services, the conditions under which the CSA's must terminate contracts, and the items required in the CSA Plans of Operation. Additional responsibilities include:

- (a) reviewing and approving, with the concurrence of the Commissioner of Finance and Administration and the Comptroller of the Treasury, Plans of Operation submitted by the CSAs;
 - (b) entering into contracts, subject to applicable rules, regulations and procedures, to carry out the provisions of the Act;
 - (c) appointing an Executive Director for each CSA, subject to approval by the Board;
 - (d) requiring each CSA to submit annual reports of their activities on each preceding fiscal year;
 - (e) performing other acts necessary or convenient to exercise the powers granted or reasonably implied by this part.
- (3) The mission of each CSA is to provide, to the maximum extent possible, coordination of funds or programs designated for care of children and other citizens in the state. The CSA may provide direct services with the approval of the Commissioner if it is determined that doing so would be the most effective way to provide services.
- (a) Each CSA must submit a Plan of Operation for each fiscal year as specified in the Act and in accordance with items listed in these Rules and Regulations.
 - (b) As political subdivisions and instrumentalities of the state acting in all respects for the benefit of the people of the state in the performance of essential public functions, and whose employees are deemed “state employees” for purposes of T.C.A. §9-8-307, CSA employees are required to comply with established DCS policies, procedures, standards and legal advice in providing services to families and children pursuant to contracts with DCS.

Authority: T.C.A. §§ 4-5-202, 4-5-203 and 37-5-301 et seq.

0250-7-6-.02 DEFINITIONS. The following definitions shall apply to terms as they appear in these rules, unless the context clearly requires otherwise.

- (1) Administrative staff - Employees of the CSA who perform work of managerial, clerical or secretarial nature and whose duties and tasks support all agency programs.
- (2) Amendment - A modification to the Plan of Operation which increases the total dollar amount of a program or substantially changes the activities or services of a particular program.
- (3) Board - The CSA appointed Board of Directors.
- (4) Commissioner - The Commissioner of the Department of Children’s Services or his or her designee.
- (5) Commissioners - The Commissioner of the Department of Children’s Services, the Commissioner of Finance and Administration, and the Comptroller of the Treasury.
- (6) Department - The Tennessee Department of Children’s Services.
- (7) Executive Director - The chief executive officer of a CSA.

- (8) Line Item - A specific item of expenditure included in the operational budget of a CSA, such as personnel services, travel, etc.
- (9) Program Staff - Persons employed for the purpose of carrying out various duties related to a specific program defined in the Plan of Operation.
- (10) Program - An Activity or service identified in the Plan of Operation and having its own funding source.
- (11) Public Agency - Any political subdivision of this State; agency of the state government or the United States; and/or agency or political subdivision of another state.
- (12) Revision - A modification of the Plan of Operation which may change the operational budget line items resulting in either no change or a decrease in program and total budget and does not require the approval of the Commissioners.
- (13) State - The geographical State of Tennessee ("state") or the government of Tennessee ("State").

Authority: T.C.A. §§ 4-5-202, 4-5-203, and 37-5-301 et seq.

0250-7-6-.03 PLANS OF OPERATION. The Plan of Operation, as approved by the Community Services Agency Board and evidenced by the signature of the Chairman of the Board, shall be submitted to the Commissioner for approval by the Commissioners at least 90 days prior to July 1 (the start of the State fiscal year). If the proposed Plan of Operation is not approved by the beginning of the new fiscal year, the previous year's Plan of Operation may be extended by the Commissioner for a period not to exceed three months. If a Plan of Operation is not submitted prior to July 1, the Commissioner, in consultation with the Commissioner of Finance and Administration and the Comptroller of the Treasury, shall employ appropriate action, (which may include the withholding of state funds and approval of the Plan of Operation). Without an approved Plan of Operation, the Community Services Agency cannot obligate or expend any dollars from any source.

The Plan of Operation shall contain the following sections:

- (1) Administration - The administration section shall include, but not be limited to, the following:
 - (a) Composition of the administrative staff by title;
 - (b) Scope of administrative services;
 - (c) Total administrative budget;
 - (d) Source(s) and amounts of administrative funding;
 - (e) Administrative staff location;
 - (f) List of contracts related to the administration of the Community Services Agency.
- (2) Services - The services section shall include, but not be limited to the following:
 - (a) Services for Children & Families
 - 1. Name of program or service.

- (i) A general description of program;
- (ii) Staff composition by title;
- (iii) Scope of activity and services provided;
- (iv) Total program budget;
- (v) Source(s) of funding;
- (vi) Location(s) of activity to be performed;
- (vii) List of fees to be charged;
- (viii) Methodology for determining fee;
- (ix) Listing of each related contract stating name and total dollar amount.

(b) Other Community Services

1. Name of program or service.

- (i) A general description of program;
- (ii) Staff composition by title;
- (iii) Scope of activity and services provided;
- (iv) Total program budget;
- (v) Source(s) of funding;
- (vi) Location(s) of activity to be performed;
- (vii) List of fees to be charged;
- (viii) Methodology for determining fee;
- (ix) Listing of each related contract stating name and total dollar amount.

(3) Financial - The financial section describes the financial status and operation of the CSA.

(a) Operating budget (by program and total budget).

(b) Capital budget (for real property, automobiles, computer and other equipment).

- 1. Categorize by Real Property, Automobiles, Computer Equipment* or Other Equipment* and complete the information, by category, as follows:

- (i) Location and description of property, automobile, or equipment and purpose for which item(s) is to be used.
- (ii) Funding program
- (iii) Cost
- (iv) Method of acquisition (purchase or lease)

* Total annual purchases of computer or other equipment of less than \$30,000 per category need not be listed in the Plan of Operation.

(c). Other: Insert any certification or other language required by federal agencies or the State of Tennessee.

Authority: T.C.A. §§ 4-5-202, 4-5-203, 37-5-307, and 37-5-310.

0250-7-6-.04 AMENDMENTS, REVISIONS, AND WAIVERS TO PLAN OF OPERATION

- (1) Revisions: The Plan of Operation may be revised during the fiscal year with the approval of the Board and the Commissioner. A revision is a change to operational budget line items which results in no change in total budget, or a change to operational budget line items resulting in a decrease in total budget; or changes to staff composition; or programmatic changes which do not substantially change the scope of services.
- (2) Amendments: The Plan of Operation may be amended with the approval of the Board and Commissioners. An amendment is any change not specified as a Revision.
- (3) The Commissioners may waive any of the requirements of the Plan of Operation where such waiver would not have a detrimental effect on the health, safety and welfare of the public.

Authority: T.C.A. §§ 4-5-202, 4-5-203, 37-5-307, and 37-5-310.

0250-7-6-.05 ADMINISTRATIVE AND FINANCIAL

- (1) Policies and Procedures
 - (a) The CSA shall adopt policies and procedures governing internal operations. The policies shall require all books and records be maintained in accordance with generally accepted accounting principles, and be less than those recommended in the Accounting Manual for Recipients of Grant Funds in Tennessee, published by the Comptroller of the Treasury. These policies and procedures shall be approved by the Board and Commissioner.
 - (b) The CSA shall adopt personnel policies and procedures, which shall be approved by the Board and the Commissioner.
- (2) Purchasing and disposition procedures. The purchase of goods, materials, supplies which are not an integral part of service delivery under Section 0250-7-6-.05(4), utility services, janitorial services, and postal services shall comply with applicable state or federal guidelines. The Board of the Community Services Agency shall develop purchasing and disposition procedures as a component of CSA policy.

- (3) Contracting for services procedures. This includes personal, professional and consultant services, as well as goods that are an integral component of service delivery (i.e., Flex Fund purchases). The Community Services Agency Board shall adopt policies and procedures for the purchase of services and shall submit such policies to the Commissioner for approval. These policies shall include a mechanism ensuring competitive procurement whenever possible, even where no formal contract is required, and may be amended from time to time with approval of the Commissioner. These policies shall incorporate, at a minimum, the following criteria:
 - (a) Purchases of services where the individual purchase is less than \$5,000 and where the anticipated aggregate annual purchase of like services from the same vendor is less than \$25,000 do not require written contracts and are not required to be listed in the Plan of Operation.
 - (b) Purchases of services where the individual purchase is greater than \$5,000 or where the anticipated aggregate annual purchase of like services from the same vendor is greater than \$25,000 require a purchase of service agreement and must be listed in the Plan of Operation.
 - (c) Purchase of services where the anticipated annual purchase of the same type of service from a single vendor is greater than \$50,000 shall require a Request for Proposal (RFP) or a public announcement of funds.
- (4) Contracts for the acquisition and improvement of real property. These shall be pursuant to the provision of Tennessee Code Annotated Sections 37-5-306(2) and (3) and 4-15-102 and require approval from the Commissioner and the State Building Commission.
- (5) Contracts approval. All contracts must be approved by the Board and evidenced by the signature of the Chairman of the Board.
- (6) Contract language. The Community Services Agency shall use model contract language in a format approved by the Commissioner.
- (7) Reimbursement for travel expenses. Reimbursement for travel expenses by Board members and employees of a Community Services Agency shall be made in accordance with rates established by the Commissioner of the Department of Finance and Administration.
- (8) Annual Report. The Board of Directors shall submit, to the Department, an annual report on each preceding fiscal year activities and financial transactions within sixty (60) days of receipt of a final audit report by the Comptroller of the Treasury.

Authority: *T.C.A. §§ 4-5-202, 4-5-203, 37-5-306, 37-5-310, and 37-5-311.*

REPEAL

Rule 1200-20-10-01-1200-20-10-.06 (Community Health Agency Rules and Regulations) is repealed.

Authority: *T.C.A. §§4-5-202, 4-5-203, 37-3-112, Public Chapter 1079 §§13 and 149.*

The notice of rulemaking out herein was properly filed in the Department of State on the 16th day of February, 2001. (02-04)

BOARD OF CHIROPRACTIC EXAMINERS - 0260

There will be a hearing before the Tennessee Board of Chiropractic Examiners to consider the promulgation of a new rule and amendments to rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-4-106. 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. (CDT) on the 30th day of April, 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 0260-2-.01, Definitions, is amended by deleting paragraph (21) in its entirety and is further amended by adding the following language as a new, appropriately numbered paragraph:

- () Chiropractic Physical Therapeutics - A category of a physical agent utilized as ancillary therapy to adjustive procedures which may give additional physiological support to the five (5) components of a subluxation complex preceding or following specific adjustive procedures.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-106, and 63-4-123.

Rule 0260-2-.12, Continuing Education, is amended by adding the following language as new paragraph (2) and renumbering the remaining paragraphs accordingly:

- (2) New licensee requirements
 - (a) A six (6) hour Board approved course in risk management, sexual/professional boundaries, and Tennessee statutory and regulatory chiropractic jurisprudence shall constitute part of the twelve (12) clock hour continuing education requirement in paragraph (1) of this rule for the first calendar year that continuing education is required.
 - (b) New licensee by examination - Submitting proof of successful completion of all education and examination requirements necessary for licensure in Tennessee, pursuant to paragraphs 0260-2-.04 (1) and 0260-2-.08 (1), shall be considered proof of sufficient preparatory education and training to constitute continuing education credit for the calendar year in which the applicant is approved for licensure.

- (c) New licensee by criteria (reciprocity) - Submitting proof of successful completion of all education and examination requirements necessary for licensure in Tennessee, pursuant to paragraph 0260-2-.04 (2), shall be considered proof of sufficient preparatory education and training to constitute continuing education credit for the calendar year in which such education and training requirements for licensure in another state were completed.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, and 63-4-112.

Rule 0260-3-.12, Continuing Education, is amended by adding the following language as new paragraph (2) and renumbering the remaining paragraphs accordingly:

(2) New certification requirements

- (a) New certificate of proficiency - Submitting proof of successful completion of all education and examination requirements necessary for a certificate of proficiency in Tennessee, pursuant to paragraphs 0260-3-.04 (1) and 0260-3-.08 (1), shall be considered proof of sufficient preparatory education and training to constitute continuing education credit for the calendar year in which the applicant is approved for a certificate of proficiency.
- (b) New technologist certification - Submitting proof of successful completion of all education and examination requirements necessary for licensure in Tennessee, pursuant to paragraphs 0260-3-.04 (2) and 0260-3-.08 (1), shall be considered proof of sufficient preparatory education and training to constitute continuing education credit for the calendar year in which the applicant is approved for certification.
- (c) New certification by criteria (reciprocity based on licensure in another state) - Submitting proof of successful completion of all requirements necessary for certification in Tennessee, pursuant to paragraph 0260-3-.04 (3), shall be considered proof of sufficient preparatory education and training to constitute continuing education credit for the calendar year in which education and training requirements for licensure in another state were completed.
- (d) New certification by criteria (reciprocity based on another profession) - Submitting proof of successful completion of all requirements necessary for certification in Tennessee, pursuant to paragraph 0260-3-.04 (4), shall be considered proof of sufficient preparatory education and training to constitute continuing education credit for the calendar year in which such education and training requirements certification in the other state were completed.

Authority: T.C.A. §§ 4-5-202, 4-5-203, 4-5-204, 63-4-106, and 63-4-119.

NEW RULE**TABLE OF CONTENTS**

0260-2-.10 Professional Peer Assistance

0260-2-.10 PROFESSIONAL PEER ASSISTANCE.

- (1) The Board has the prerogative to refer for assessment(s), and if needed, treatment for presenting problem(s), any licensee or applicant voluntarily or involuntarily coming before the Board.
- (2) As an alternative to disciplinary action, or as part of a disciplinary action, the Board may utilize the services of a professional assistance program, as approved by the Board, for situations regarding licensee substance abuse, chemical abuse, or lapses in professional and/or ethical judgements. Information regarding persons entering the program upon referral by this Board shall be confidential.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-1-136, 63-4-106, and 63-2-114, and 63-4-115.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2001. (02-15)

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 23rd day of April, 2001.

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

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 DISCIPLINARY 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 out herein was properly filed in the Department of State on the 28th day of February, 2001. (02-22)

BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of amendments to rules, new rules, and repeal of rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105. 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 the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 23rd day of April, 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.

SUMMARY OF PROPOSED RULES

AMENDMENTS

Rule 0460-1-.01, Definitions, is amended by deleting the introductory language to rule .01 and substituting instead the following new sentence, and is further amended by deleting paragraph (10) and paragraph (11) and renumbering the remaining paragraphs accordingly, so that as amended, the new introductory sentence to rule .01 shall read:

0460-1-.01 DEFINITIONS. As used in Chapters 1 through 5 of Rule 0460, the following terms and acronyms shall have the following meanings ascribed to them:

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

Rule 0460-1-.02, Fees, is amended by deleting subparagraph (1) (h) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraph (1) (i) and renumbering the remaining subparagraphs accordingly, so that as amended the new subparagraph (1) (h) and (1) (i) shall read:

- | | | | |
|-----|-----|---|----------|
| (1) | (h) | General Anesthesia or Conscious (Intravenous) Sedation permit issuance fee | \$250.00 |
| (1) | (i) | General Anesthesia or Conscious (Intravenous) Sedation biennial renewal fee | \$ 10.00 |

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-110, and 63-5-117.

Rule 0460-2-.07, Anesthesia and Sedation, is amended, by deleting the catchline and by deleting paragraphs (1), (2), (3), and (4) and substituting instead the following language, so that as amended, the new catchline and the new paragraphs (1), (2), (3), (4), (5), and (6) shall read:

0460-2-.07 CONSCIOUS SEDATION (NON-INTRAVENOUS TECHNIQUES)

The complete text of this rule describes, in the absence of a required permit, the standards for conscious sedation with nitrous oxide and other non-intravenous techniques.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-122.

Rule 0460-2-.11, Regulated Areas of Practice is amended by deleting paragraph (7) and its subparagraphs in its entirety.

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

NEW RULES

These new rules are added to the existing chapter 0460-1, General Rules. Part of new Rule .15, Universal Precautions replaces the language currently found in (and, as part of this notice of rulemaking hearing, proposed to be deleted from) Rule 0460-2-.11, Regulated Areas of Practice, with regard to universal precautions for the prevention of HIV. The other language in these new rules repeats much of the language that will be found in new chapter 0460-5.

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0460-1-.07	Reporting Injury or Mortality	0460-1-.15	Universal Precautions
0460-1-.14	Medical Records	0460-1-.16	Patient Rights

0460-1-.07 REPORTING INJURY OR MORTALITY.

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

0460-1-.14 MEDICAL RECORDS.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-5-105, and 63-5-108.

0460-1-.15 UNIVERSAL PRECAUTIONS.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 68-11-222.

0460-1-.16 PATIENT RIGHTS.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-5-105, and 63-5-108.

NEW RULES

RULES GOVERNING CONSCIOUS (INTRAVENOUS) SEDATION AND GENERAL ANESTHESIA

This new chapter of rules establishes regulations for the utilization of general anesthetics and conscious sedation (intravenous) in dental offices. The regulations apply to adult and pediatric patients. The new chapter replaces the language currently found in (and proposed to be deleted from) Rule 0460-2-.07, Anesthesia and Sedation, for general anesthetics and conscious sedation (intravenous), and permitting requirements. The new chapter also includes language for the inspection of offices and records wherever the utilization of general anesthetics and conscious sedation (intravenous) in dental offices occurs.

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0460-5-.01	Definitions	0460-5-.05	Basic Services
0460-5-.02	Permitting Procedures	0460-5-.06	Pediatric Services
0460-5-.03	Administration and Dental Staff	0460-5-.07	Medical Records
0460-5-.04	Pre-Anesthesia Assessment, Discharge Procedures, and Emergency Transfers	0460-5-.08	Patient Rights
		0460-5-.09	Office Standards

0460-5-.01 DEFINITIONS.

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

0460-5-.02 PERMITTING PROCEDURES.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-124.

0460-5-.03 ADMINISTRATION AND DENTAL STAFF.

0460-5-.04 ADMISSIONS, DISCHARGE, AND EMERGENCY TRANSFERS.

0460-5-.05 BASIC SERVICES.

0460-5-.06 PEDIATRIC SERVICES.

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

0460-5-.07 MEDICAL RECORDS.

0460-5-.08 PATIENT RIGHTS.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-5-105, and 63-5-108.

0460-5-.09 OFFICE STANDARDS.

0460-5-.10 INFECTIOUS AND HAZARDOUS WASTE.

0460-5-.11 DISASTER PREPAREDNESS.

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

REPEALS

Rule 0460-1-.07, Reserved, is repealed.

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

Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Jerry Kosten, Regulations Manager, Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010 615-532-4397.

The notice of rulemaking out herein was properly filed in the Department of State on the 28th day of February, 2001. (02-18)

BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of a new rule, amendments to rules, and repeal of a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105. 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 the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 23rd day of April, 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

NEW RULE

TABLE OF CONTENTS

0460-1-.02 Fees

0460-1-.02 FEES. The fees authorized by the Tennessee Dental Practice Act (T.C.A. §§ 63-5-101, et seq.) and other applicable statutes are established and assessed by the Board as non-refundable fees, as follows:

- (1) Dentists
 - (a) Licensure Application Fee – Payable each time an application for licensure is filed. This fee also applies to educational and dual degree licensure applications. \$150.00
 - (b) Educational Licensure Fee – Payable each time an application for an educational license is filed. This fee is to be paid in addition to the licensure application fee. \$100.00
 - (c) Specialty Certification Application Fee – Payable each time an application for a specialty certification is filed. \$100.00
 - (d) Student Clinical Instructors Exemption Fee – Payable each time and for each individual named in the Application for Exemption submitted pursuant to Rule 1460-2-.04 (5). \$ 10.00
 - (e) General Anesthesia Permit Issuance Fee - Payable each time an application for a general anesthesia permit is filed. \$250.00

- (f) General Anesthesia Permit Renewal Fee – Payable biennially each time a general anesthesia permit is renewed. \$ 10.00
 - (g) Conscious (Intravenous) Sedation Permit Issuance Fee – Payable each time an application for a conscious (intravenous) sedation permit is filed. \$250.00
 - (h) Conscious (Intravenous) Sedation Permit Renewal Fee – Payable biennially each time a conscious (intravenous) sedation permit is renewed. \$ 10.00
 - (i) Licensure Renewal Fee – Payable biennially by all licensees, including educational and dual degree licensees, and excluding Inactive Volunteer licensees. \$200.00
 - (j) State Regulatory Fee – Payable upon application for licensure and biennially thereafter by all licensees. \$ 10.00
 - (k) Late Renewal Fee – Payable when a licensee fails to renew licensure timely and which is paid in addition to the licensure renewal fee. \$100.00
 - (l) Duplicate License Fee – Payable when a licensee requests a replacement for a lost or destroyed “artistically designed” wall license or renewal certificate. \$ 20.00
 - (m) Inactive Volunteer Renewal Fee – This fee is paid biennially by Inactive Volunteer licensees. \$ 30.00
- (2) Dental Hygienist
- (a) Licensure Application Fee – Payable each time an application for licensure is filed. This fee also applies to criteria approval and educational licensure applications. \$ 90.00
 - (b) Criteria Licensure Fee – Payable each time an application for an educational license is filed. This fee is to be paid in addition to the licensure application fee. \$ 50.00
 - (c) Educational Licensure Fee – Payable each time an application for an educational license is filed. This fee is to be paid in addition to the licensure application fee. \$ 50.00
 - (d) Student Clinical Instructor Exemption Fee – Payable each time and for each individual named in the Application for Exemption submitted pursuant to Rule 0460-3-.04(5). \$10.00
 - (e) Licensure Renewal Fee – Payable biennially by all licensees, including criteria approved and educational licensees. \$145.00
 - (f) State Regulatory Fee – Payable upon application for licensure and biennially thereafter by all licensees. \$10.00
 - (g) Late Renewal Fee – Payable when a licensee fails timely to renew licensure and which is paid in addition to the licensure renewal fee. \$50.00
 - (h) Duplicate License Fee – Payable when a licensee requests a replacement for a lost or destroyed “artistically designed” wall license or renewal certificate. \$20.00

- (3) Dental Assistants
 - (a) Registration Application Fee – Payable each time an application for a registration to practice as a dental assistant is filed. \$25.00
 - (b) Examination Processing Fee - Payable each time an applicant for registration applies to take or retake the registration examination. It is collected by the Board’s office when permission is sought to take or retake the examination. (Additional fees may be required by the examining agency.) \$10.00
 - (c) Registration Renewal Fee - Payable biennially by all registrants. \$105.00
 - (d) State Regulatory Fee - Payable upon application for registration and biennially thereafter by all registrants. \$10.00
 - (e) Late Renewal Fee – Payable when a registration is not timely renewed and which is paid in addition to the licensure renewal fee. \$25.00
 - (f) Duplicate Registration Fee – Payable when a registrant requests a replacement for a lost or destroyed “artistically designed” wall registration or renewal certificate. \$20.00
 - (g) Coronal Polishing Examination Fee - Payable each time the registrant applies to sit for the written and/or clinical examination. It is collected by the Board’s office. \$50.00
- (4) Fees may be paid in the following manner:
 - (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board’s Administrative Office and made payable to the Tennessee Board of Dentistry.
 - (b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-106, 63-1-107, 63-1-108, 63-5-105, 63-5-108, 63-5-110, 63-5-111, 63-5-113, 63-5-114, 63-5-117, 63-5-118, and 63-5-132.

AMENDMENTS

Rule 0460-1-.03, Board Officers, Consultants, Records, and Meetings, is amended by deleting paragraphs (6) and paragraphs (7) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (6) and (7) shall read:

- (6) Request for Certificates of Fitness (verifications) for licensees or registrants desiring to practice in another state must be made in writing to the Board Administrative Office.
- (7) Request for duplicate or replacement licenses or registrations must be made in writing on a form to be supplied by the Board and forwarded to the Board’s Administrative Office with the fee required in Rule 0460-1-.02.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-106, 63-1-118, and 63-5-105.

Rule 0460-1-.05, Continuing Education and C.P.R., is amended by deleting subparagraph (1) (a) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraph (1) (b) and renumbering the remaining subparagraphs accordingly, so that as amended, the new subparagraphs (1) (a) and (1) (b) shall read:

- (1) (a) Each licensed dentist and dental hygienist must attend and complete fifteen (15) hours of continuing education each calendar year (January 1-December 31) in courses approved by the Board. A minimum of one (1) of the required fifteen (15) annual hours must be obtained in the area of chemical dependency education.
- (1) (b) Each registered dental assistant must attend and complete a minimum of one (1) hour of continuing education each calendar year (January 1-December 31) in the area of chemical dependency education. Registered dental assistants who have coronal polishing certification may apply the one (1) hour required in chemical dependency education to the seven (7) hour requirement as provided in Rule 0460-4-.04(6)(a)2..

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-114, and 63-5-115.

Rule 0460-2-.03, Educational Licensure Process, is amended by deleting paragraph (8) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, and 63-5-111.

Rule 0460-2-.05, Examination, is amended by deleting the semicolon (;) and the word “and” at the end of subparagraph (1) (b) and by deleting subparagraph (1) (c) in its entirety, and is further amended by deleting paragraphs (3) and (5) in their entirety.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, and 63-5-111.

Rule 0460-3-.02, Criteria Approval Licensure Process (Reciprocity), is amended by deleting paragraphs (14) and (15) in their entirety and renumbering the remaining paragraph accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-111, and 63-5-114.

Rule 0460-3-.03, Educational Licensure Process, is amended by deleting paragraph (7) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-111, and 63-5-114.

Rule 0460-3-.05, Examination, is amended by deleting the last sentence in paragraph (2), and is further amended by deleting paragraphs (3) and (5) in their entirety.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-111, and 63-5-114.

Rule 0460-4-.02, Registration Process, is amended by deleting subparagraph (8) (a) and its parts in its entirety and substituting instead the following language, so that as amended, the new subparagraph (8) (a) shall read:

- (8) (a) Certified Dental Assistant - Documentation sufficient to substantiate compliance with all prerequisites of a certified dental assistant as defined in rule 0460-1-.01; or

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-111, and 63-5-115.*

Rule 0460-4-.03, Examination, is amended by deleting paragraphs (1) and (2) in their entirety and substituting instead the following language, and is further amended by deleting paragraphs (4) and (5) and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs (1) and (2) shall read:

- (1) An applicant must complete and submit a Board provided examination application form to the Board Administrative Office to take the registration examination.
- (2) An applicant taking the dental assistant registration examination must submit the examination fee provided in rule 0460-1-.02 (3).

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-111, and 63-5-115.*

REPEAL

Rule 0460-1-.02, Fees, is repealed.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2001. (02-17)

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 amendments 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 amendments. 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 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 18th day of April, 2001.

Written comments will be included in the hearing records if received by the close of business April 18, 2001, 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 (April 18, 2001) 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 AMENDMENT

CHAPTER 1200-3-4
OPEN BURNING

“Paragraph (5) of rule 1200-3-4-.03 Open Burning Prohibited is repealed.

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

This notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2001. (02-20)

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 amendments 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 amendments. 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 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 18th day of April, 2001.

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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 (April 18, 2001) 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 RULES

CHAPTER 1200-3-9
CONSTRUCTION AND OPERATING PERMITS

AMENDMENT

Part 40. of subparagraph (f) of paragraph (5) of rule 1200-3-9-.04 Exemptions is amended by deleting the following language in the last sentence of the part "The open burning of buildings or other structures in Williamson, Wilson, Rutherford, and Sumner counties for firefighter training is prohibited." so that, as amended the part shall read:

40. Firefighting equipment and the equipment used for training of firefighting.

Authority: T.C.A. §§68-201-105 and 4-5-202 et. seq.

This notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2001. (02-19)

**TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF SUPERFUND**

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. 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 at the Baker Community Center, Auditorium, 7942 Church Street, Millington, TN 38053 on April 18, 2001 at 6:00 p.m. Individuals with disabilities who wish to participate 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 in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-1-13
HAZARDOUS SUBSTANCE SITE REMEDIAL ACTION**

AMENDMENTS

Rule 1200-1-13-.13 List of Inactive Hazardous Substance Sites is amended by deleting the following site from the list, such deletion being made in a manner so that the entire list remains in numerical order:

Site Number	Site Name
Shelby County (79)	
79-522	Chromasco Millington, TN

Authority: T.C.A. § 68-212-206(e) and § 68-212-215(e).

The notice of rulemaking set out herein was properly filed in the Department of State on the 12th day of February, 2001. (02-03)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF SUPERFUND**

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. 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 at the Sullivan County Courthouse, Conference Room #1, Main Street, Blountville, TN 37617 on April 24, 2001, at 7:00 p.m. Individuals with disabilities who wish to participate 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 in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-1-13
HAZARDOUS SUBSTANCE SITE REMEDIALACTION**

AMENDMENTS

Rule 1200-1-13-.13 List of Inactive Hazardous Substance Sites is amended by deleting the following site from the list, such deletion being made in a manner so that the entire list remains in numerical order:

Site Number	Site Name
Sullivan County (82)	
82-531	Holston Reservoir Forestry Service Bristol, TN

Authority: T.C.A. §§68-212-206(e) and 68-212-215(e).

The notice of rulemaking set out herein was properly filed in the Department of State on the 23rd of February, 2001. (02-11)

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 new rules and amendments pursuant to T.C.A. 68-202-101 et seq. and 68-202-201 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 10:00 a.m. (CST), on the 23rd day of April, 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 April 23, 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.

SUMMARY OF PROPOSED RULES

NEW RULES

CHAPTER 1200-2-4
GENERAL PROVISIONS

The purpose of this rulemaking is to bring the regulations of the Department of Environment & Conservation, Division of Radiological Health, into compliance with various changes that the U.S. Nuclear Regulatory Commission (NRC) has made to Title 10 of the Code of Federal Regulations (10 CFR). Tennessee's status as an Agreement State requires this compatibility.

The rulemaking affects Chapters 1200-2-4, 1200-2-5, 1200-2-7, 1200-2-8, 1200-2-10, and 1200-2-12. Its various additions and modifications will incorporate:

- ♦ new definitions and changes in low-level waste shipment manifest requirements,
- ♦ new definitions and additions to transportation of radioactive material requirements, bringing them into compatibility with those of the NRC and of the International Atomic Energy Agency (IAEA),
- ♦ resolution of dual regulation of airborne radioactive material effluents, currently subject to regulation by both the Division of Radiological Health and the Division of Air Pollution Control under the Clean Air Act,
- ♦ clarification of the reciprocal recognition of licenses issued by the Division in areas under exclusive Federal jurisdiction,
- ♦ criteria for the release of individuals administered radioactive material as radiopharmaceuticals or permanent implants,
- ♦ changes to industrial radiography requirements, including certification of radiographers, use of two-man teams, and equipment performance requirements,

- radiological criteria for termination of radioactive material licenses,
- provision for the receipt, possession, use, transfer, ownership or acquisition of a radioactive drug that contains one microcurie (1 mCi) of carbon-14 urea. The drug is used for a diagnostic test to detect the presence of the bacterium *Helicobacter pylori* (*H. pylori*), a cause of peptic ulcers in humans,
- a rule relating to intentional misconduct by persons subject to regulations of the Division,
- revised definitions of 'occupational dose,' 'member of the public,' 'public dose,' 'misadministration,'
- changes to 1200-2-10-.13, Special Requirements for Issuance of Specific Licenses, affecting the manufacture, preparation or transfer for commercial distribution of radiopharmaceuticals containing radioactive material for medical use under group licenses.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2001. (02-21)

**TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620
BUREAU OF TENNCARE**

There will be a hearing before the Commissioner to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, 71-5-105 and 71-5-109. 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 16 of the Legislative Plaza, 6th Avenue North, Nashville, Tennessee, at 9:00 a.m. C.D.T. on the 16th day of April, 2001.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Finance and Administration, Bureau of TennCare, 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 Bureau of TennCare to determine how it may reasonably provide such aid or service. Initial contact may be made with the Bureau of TennCare's ADA Coordinator by mail at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or by telephone at (615) 741-0155 or 1-800-342-3145.

For a copy of this notice of rulemaking hearing, contact George Woods at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or call (615) 741-0145.

SUBSTANCE OF PROPOSED RULE

Subparagraph (c) of paragraph (3) of rule 1200-13-1-.05 Providers is amended by adding the phrase “or, where there is no Medicaid fee schedule for the covered services, reasonable billed charges” after the word “question” so as amended subparagraph (c) shall read as follows:

- (c) the total amount paid by a combination of Medicare for the covered health care services, patient liability, if any, and Medicaid as deductible and co-insurance shall not exceed the limit of the Medicaid fee schedule for the covered services in question or, where there is no Medicaid fee schedule for the covered service, reasonable billed charges, and;

Authority: T.C.A. 4-5-202, 4-5-203, 71-5-105, 71-5-109, Executive Order No. 23.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2001. (02-16)

**DEPARTMENT OF HEALTH - 1200
BOARD FOR LICENSING HEALTH CARE FACILITIES**

There will be a hearing before the Tennessee Department of Health to consider the promulgation of rules pursuant to T.C.A. §§ 68-11-202 et seq., and 68-11-209. The hearing will be conducted in the manner prescribed by the Uniform Administration Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room on the ground floor of the Cordell Hull Building located at 425 5th Avenue North, Nashville, Tennessee 37247-0508 at 9:00 a.m. C.T. on the 18th day of April, 2001.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of Health 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 Health to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Health's ADA Coordinator at 425 5th Avenue North, Nashville, Tennessee, Telephone 615-741-7586.

For a copy of this notice of rulemaking hearing, contact: Anita Van Tries, 425 5th Avenue North, Nashville, Tennessee 37247-0508, Telephone 615-741-7586.

SUBSTANCE OF PROPOSED RULES

**STANDARDS FOR ASSISTED CARE LIVING FACILITIES
CHAPTER 1200-8-25**

1200-8-25-.04 (4) (c) Administration is amended by deleting three hundred sixty dollars (\$360) and inserting one hundred eighty dollars (\$180) so that as amended the new paragraph shall read:

Must submit an application, on a form provided by the department, and a fee of one hundred eighty dollars (\$180) prior to issuance or renewal of a certificate. All certificates shall expire biennially on June 30, thereafter.

1200-8-25-.04 (4) (d) Administration is amended by deleting three hundred sixty dollars (\$360) and inserting one hundred eighty dollars (\$180) so that as amended the second sentence of the paragraph shall read:

The renewal application and fee of one hundred eighty dollars (\$180) shall be submitted with written proof of attendance, during the period prior to renewal, of at least twenty-four (24) classroom hours of continuing education courses approved by the board.

Authority: T.C.A. §§ 4-5-202, 68-11-209, 68-11-210 and 68-11-213.

The notice of rulemaking set out herein was properly filed in the Department of State on the 21st day of February, 2001. (02-09)

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. (CDT) on the 2nd day of May, 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

1020-1-.05, Licensure, is amended by deleting subparagraph (2) (d) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (d) shall read:

- (2) (d) Five (5) years of acceptable management experience combined with a Board approved A.I.T. program and fifty (50) clock hours of Board approved continuing education in nursing home administration.

1. The fifty (50) clock hours of continuing education shall be a prerequisite to the A.I.T. program.
2. The fifty (50) clock hours of continuing education must have begun within twenty-four (24) months immediately prior to approval of the A.I.T. program.
3. The fifty (50) clock hours of continuing education must have been presented in the traditional "lecture / classroom" format. Courses that use any of the presentation methods in part (3) (c) 1. of Rule 1020-1-.12 shall not be allowed.

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

Rule 1020-1-.12, Continuing Education, is amended by adding the following language as new subparagraph (3) (c):

- (3) (c) Multi-Media courses may be taken for continuing education credit.
 1. Multi-Media courses may include courses utilizing:
 - (i) The Internet
 - (ii) Closed circuit television
 - (iii) Satellite broadcasts
 - (iv) Correspondence courses
 - (v) Videotapes
 - (vi) CD-ROM
 - (vii) DVD
 - (viii) Teleconferencing
 - (ix) Videoconferencing
 - (x) Distance learning
 2. A maximum of twelve (12) credit hours may be granted for multi-media courses during each calendar year.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of February, 2001. (02-07)

BOARD OF OSTEOPATHIC EXAMINATION - 1050

There will be a hearing before the Board of Osteopathic Examination to consider the promulgation of amendments to rules and a new rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-111, and 63-9-112. 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 on the Ground Floor of the Cordell Hull Building located at 425 5th Avenue North, Nashville, Tennessee at 2:30 p.m. (CDT) on the 18th day of April, 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 Division's ADA Coordinator at the Division of Health Related Boards, 1st Floor Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-1010 (615) 523-4397.

For a copy of the entire text of this notice of rulemaking hearing contact: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 1st Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN, 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES**AMENDMENTS**

Rule 1050-2-.13 Scope of Practice, is amended by adding the following language as new paragraphs (6) and (7):

- (6) Prerequisites to Issuing Prescriptions or Dispensing Medications - In Person, Electronically, and Over the Internet
 - (a) Except as provided in subparagraph (b), it shall be a prima facie violation of T.C.A. § 63-9-111 (b) (1), (4), and (11) for a physician to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:
 - 1. Performed an appropriate history and physical examination; and
 - 2. Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good medical care; and
 - 3. Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensed drug, with the patient; and
 - 4. Insured availability of the physician or coverage for the patient for appropriate follow-up care.
 - (b) A physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, may prescribe or dispense drugs for a person not in compliance with subparagraph (a) in circumstances consistent with sound medical practice, examples of which are as follows:
 - 1. In admission orders for a newly hospitalized patient; or
 - 2. For a patient of another physician for whom the prescriber is taking calls or for whom the prescriber has verified the appropriateness of the medication; or

3. For continuation medications on a short-term basis for a new patient prior to the patient's first appointment; or
 4. For established patients who the physician feels does not require a new physical examination before issuing new prescriptions.
- (c) It shall be a prima facie violation of T.C.A. § 63-9-111 (b) (1), (4), and (11) for a physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, to prescribe or dispense any drug to any individual for whom the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has not complied with the provisions of this rule based solely on answers to a set of questions regardless of whether the prescription is issued directly to the person or electronically over the Internet or telephone lines.
- (7) Amphetamines, Amphetamine-Like Substances, and Central Nervous System Stimulants.
- (a) It shall be a prima facie violation of T.C.A. §§ 63-9-111 (b)(1) and 63-9-111 (b)(11) to prescribe, order, administer, sell or otherwise distribute any amphetamine drug except:
1. For treatment of the following:
 - (i) attention deficit disorder;
 - (ii) drug-induced brain dysfunction;
 - (iii) narcolepsy;
 - (iii) dementia or organic brain syndrome with severe psychomotor retardation;
 - (v) Chronic depression refractory to other drugs. Such diagnosis must be included on the prescription.
 2. When the licensee has applied for and received from the Board of Osteopathic Examination a written approval for the clinical investigation of such drugs under a protocol satisfactory to the Board. Any such approval by the Board of Osteopathic Examination will be filed with the Board of Pharmacy and disseminated by the Board of Pharmacy to any pharmacy which would fill prescriptions written during the research.
- (b) The list of amphetamine drugs governed this rule includes the following controlled substances:
1. Amphetamine, its salts, optical isomers and salts of its optical isomers; (examples are Biphedamine, Dexadrine, Benzedrine and others).
 2. Methamphetamine, its salts, isomers and salts of isomers; (an example is Desoxyn).
 3. Any salt, any type of isomer and salts of such isomers, or any chemical element or any mixture, compound, material or preparation, containing any quantity of any of the substances listed above or their salts, any type of isomers and salts of such isomers, or chemical elements are also governed by this rule.

- (c) It shall be a prima facie violation of T.C.A. §§ 63-9-111 (b)(1) and 63-9-111 (b)(11) to prescribe, order, administer, sell or otherwise distribute any amphetamine-like substance listed below, except when the licensee has applied for and received from the Board of Osteopathic Examination a written approval for the clinical investigation of such drugs under a protocol satisfactory to the Board. Any such approval by the Board of Osteopathic Examination will be filed with the Board of Pharmacy and disseminated by the Board of Pharmacy to any pharmacy which would fill prescriptions written during the research.
1. The list of amphetamine-like substances governed by this rule are the following controlled substances:
 - (i) Phenmetrazine and its salts; (an example is Preludin)
 - (ii) Benzphetamine; (an example is Didrex)
 - (iii) Chlorphentermine; (an example is Pre Sate)
 - (iv) Phendimetrazine; (examples are Plegine, Bontril, Meltiat, Prelu-2, dipost, Wehles, and others)
 - (v) Diethylpropion; (examples are Tenuate and Tepanil)
 - (vi) Mazindol; (examples are Mazandor and Sanorex)
 - (vii) Phentermine; (examples Ionamin, Fastin, Adipex and others), except as authorized pursuant to T.C.A. § 63-6-214;
 - (viii) Fenfluramine HS; (an example Pondimin), except as authorized pursuant to T.C.A. § 63-6-214.
 2. Any salt, any type of isomer and salts of such isomers, or any chemical element or any mixture, compound, material or preparation, containing any quantity of any of the substances listed above or their salts, any type of isomers and salts of such isomers, or chemical elements, except as authorized pursuant to T.C.A. § 63-6-214, are also governed by this rule.
- (d) It shall be a prima facie violation of T.C.A. §§ 63-9-111 (b)(1) and 63-9-111 (b)(11) to prescribe, order, administer, sell or otherwise distribute any central nervous system stimulant listed below except:
1. For treatment of any of the following:
 - (i) attention deficit disorder;
 - (ii) drug-induced brain dysfunction;
 - (iii) narcolepsy;
 - (iv) dementia or organic brain syndrome with severe psychomotor retardation;
 - (v) Chronic depression refractory to other drugs. Such diagnosis must be included on the prescription.

2. When the licensee has applied for and received from the Board of Osteopathic Examination a written approval for the clinical investigation of such drugs under a protocol satisfactory to the Board. Any such approval by the Board of Osteopathic Examination will be filed with the Board of Pharmacy and disseminated by the Board of Pharmacy to any pharmacy which would fill prescriptions written during the research.
- (e) The list of central nervous system stimulants governed by this rule are the following controlled substances:
1. methylphenidate; (an example is Ritalin);
 2. pemoline (including organometallic complexes and chelates thereof; an example is Cylert);
 3. Any salt, any type of isomer and salts of such isomers, or any chemical element or any mixture, compound, material or preparation, containing any quantity of any of the substances listed above or their salts, any type of isomers and salts of such isomers, or chemical elements are also governed by this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 53-11-301, 63-9-101, and 63-9-111.

NEW RULE

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1050-3-.09 Supervision

1050-3-.09 SUPERVISION. The employing physician(s), or a physician designated by the employing physician(s) as a substitute supervisor, shall exercise close supervision and assume full control and responsibility for the services provided by any person certified under this chapter of rules employed in the physician(s)' practice. That supervision, control and responsibility does not require the physical presence of the physician(s) at all times at the site where the services are being provided. However, it does require that the physician(s) be capable of being physically present at the site where the services are being provided within thirty (30) minutes.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, and 63-9-112.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2001. (02-14)

**BOARD OF OCCUPATIONAL AND PHYSICAL THERAPY EXAMINERS' - 1150
COMMITTEE OF PHYSICAL THERAPY**

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Physical Therapy to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, and 63-13-304. 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. (CDT) on the 20th day of April, 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, 1st Floor, Cordell Hull Bldg., 425 5th Ave. N., 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 5th Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1150-1-.02, Scope of Practice and Supervision, is amended by deleting part (2) (a) 3. in its entirety and substituting instead the following language, so that as amended, the part (2) (a) 3. shall read:

- (2) (a) 3. The licensed physical therapist may not supervise a physical therapist assistant that is delivering services at a site further than sixty (60) miles or one (1) hour from the licensed physical therapist's primary practice address registered with the Committee's administrative office. The supervising licensed physical therapist must be available to communicate by telephone or other means whenever the physical therapist assistant is delivering services.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-304, and 63-13-311.

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of February, 2001. (02-06)

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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 February 1, 2001 and ending February 28, 2001.


RILEY C. DARNELL
Secretary of State

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