

TAAAR



September 14, 2001
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RILEY C. DARNELL
Secretary of State

Division of Publications
8th Floor, Snodgrass Tower
312 8th Avenue North
Nashville TN 37243 - 0310

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Department of State, Authorization No. 305084, 435 copies, September 2001. This public document was promulgated at a cost of \$ 4.96 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.

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

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

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

Reproduction - There are no restrictions on the reproduction of official documents appearing in the Tennessee Administrative Register.

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ANNOUNCEMENTS

DEPARTMENT OF ENVIRONMENT AND CONSERVATION – 0400

PETITION FOR DECLARATORY ORDER NOTICE OF HEARING

Pursuant to Tennessee Code Annotated Section 4-5-224, the Tennessee Petroleum Underground Storage Tank Board gives the following notice of hearing on a petition for declaratory order:

1. Petitioner's Name: Star Enterprise

2. Petitioner's Attorney: Howard E. Jarvis
Tony R. Dalton
WOOLF, McCLANE, BRIGHT,
ALLEN & CARPENTER, PLLC

Address: 900 S. Gay Street, Suite 900
Post Office Box 900
Knoxville, Tennessee 37901-0900

Telephone number: (865) 215-1000

3. Organization, if any, that the Petitioner represents:

Organization Name: N/A

Address: N/A

4. Summary of the relief requested:

Petitioner requests a declaratory order from the Tennessee Petroleum Underground Storage Tank Board that the denial of the Application for Authorization for Fund Eligibility by the Department of Environment and Conservation Division of Underground Storage Tanks was incorrect and should be reversed.

5. Summary of the statute that the agency is called upon to interpret or upon which it is to rule.

Tenn. Code Ann. § 68-215-105, *et. seq.*

This Chapter, effective July 1, 1988, establishes the petroleum underground storage tank fund, which is available to the Underground Storage Tank Board and the Commissioner of the Department of Environment and Conservation for expenditures for the purposes of providing for the investigation, identification, and for the reasonable and safe cleanup, including monitoring and maintenance of petroleum sites within the state. The fund is used to provide for cleanup of contamination caused by leaking petroleum underground storage tanks whose owners and/or operators have paid the required petroleum underground storage tank fee.

A contested case hearing has been scheduled for November 14, 2001, 9:30 a.m., 17th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243

The Notice of Hearing of Petition for Declaratory Order set out herein was properly filed in the office of the Secretary of State, Publications Division, on this the 17th day of August 2001.

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 10.50 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 October 2001 is 9.40 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 5.40 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 August 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. & DIVISION | TYPE OF FILING | DESCRIP-TION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
|-------|--------------|--|--------------------------|--------------|--|--|----------------------------------|
| 08-01 | Aug 3, 2001 | 0400 Environment and Conservation Solid Waste Management | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-1-11 Hazardous Waste Management</i> <i>Chapter 1200-1-14 Commercial Hazardous Waste Management Facilities</i> | Mr. Gerald Ingram Solid Waste Mgmt. 5th Fl L & C Annex 401 Church St Nashville, TN 37243-1531 (615) 532-0850 | Oct 17, 2001 |
| 08-02 | Aug 1, 2001 | 1240 Human Services Adult and Family Services Division | Public Necessity Rules | | <i>Chapter 1240-4-7 Report Cards and Rated Licensing for Child Care Agencies</i> 1240-4-7-.01 Purpose and Scope 1240-4-7-.02 Definitions 1240-4-7-.03 Report Card 1240-4-7-.04 Star-Quality Child Care Program 1240-4-7-.05 Re-Evaluations and Reviews of Report Cards and Agency Ratings | William B. Russell Citizens Plaza Bldg 15th Fl 400 Deaderick St Nashville, TN 37248-0006 (615) 313-4731 | Aug 1, 2001 through Jan 13, 2001 |
| 08-04 | Aug 7, 2001 | 0620 Finance And Administration | Proposed Rules | New Rules | <i>Chapter 0620-3-6 Family Violence Shelter Standards</i> 0620-3-6-.01 Background and Purpose 0620-3-6-.02 Individual Eligibility Requirements For Family 0620-3-6-.03 Program Requirements for Funding 0620-3-6-.04 Minimum Standards For Family Violence 0620-3-6-.05 Minimum Requirements For Shelter Services 0620-3-6-.06 Counseling for Perpetrators 0620-3-6-.07 Program Administration 0620-3-6-.08 Service Delivery Process 0620-3-6-.09 Agency Requirements | Mark Cherpack Finance and Administration Suite 2100 312 8 th Ave N Snodgrass TN Twr Nashville TN 37243 (615) 253-4706 | Dec 28, 2001 |
| 08-10 | Aug 14, 2001 | 0530 Registry of Election Finance | Proposed Rules | New Rules | <i>Chapter 0530-1-3 Campaign Finance Rules</i> 0530-1-3-.01 Elections 0530-1-3-.02 Campaign Contributions 0530-1-3-.03 Attribution of Campaign Contributions 0530-1-3-.04 Certification of Political Treasurer 0530-1-3-.05 Bookkeeping Procedures 0530-1-3-.06 Disclosure of Affiliation of Multicandidate Political Campaign Committees (PACs) 0530-1-3-.07 Independent Campaign Exp. | Drew Rawlins 404 James Robertson Pkwy Suite 1614 Nashville TN 37243-1360 615-741-7959 | Dec 28, 2001 |

| SEQ | FILE DATE | DEPT. & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
|-------|--------------|--|--------------------------|-------------|--|--|----------------|
| 08-13 | Aug 21, 2001 | 1660 Wildlife Resources Agency | Rulemaking Hearing Rules | Repeal | <i>Chapter 1660-1-5 Rules and Regulations For Fishing</i> 1660-1-5-.02 Commercial fishing on Reelfoot Lake | Sheryl Holtam, Attorney TWRA P.O. Box 40747 Nashville, TN 37204 (615) 781-6606 | Nov 4, 2001 |
| 08-14 | Aug 21, 2001 | 1000 Board of Nursing | Rulemaking Hearing Rules | Amendments | <i>Chapter 1000-1 Rules And Regulations Of Registered Nurses</i> 1000-1-.12 Fees <i>Chapter 1000-2 Rules And Regulations Of Licensed Practical Nurses</i> 1000-2-.12 Fees | Tracey Boyers-Heathman OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | Nov 4, 2001 |
| 08-16 | Aug 21, 2001 | 0620 Finance and Administration Bureau of TennCare | Rulemaking Hearing Rules | Amendment | <i>Chapter 1200-13-1 General Rules</i> 1200-13-1-.05 Providers | George Woods Bureau of TennCare 729 Church St Nashville, TN 37247-6501 (615) 741-0145 | Nov 4, 2001 |
| 08-17 | Aug 21, 2001 | 1050 Board of Osteopathic Examination | Rulemaking Hearing Rules | New Rules | <i>Chapter 1050-5 General Rules Governing Certified Professional Midwives in TN</i> 1050-5-.01 Reserved 1050-5-.02 Reserved 1050-5-.03 Reserved 1050-5-.04 Certification Applications, Requirements, and Exemptions 1050-5-.05 Reserved 1050-5-.06 Reserved 1050-5-.07 Reserved | Robert J. Kraemer, Jr., OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | Nov 4, 2001 |
| 08-18 | Aug 23, 2001 | 0880 Board of Medical Examiners | Rulemaking Hearing Rules | New Rule | <i>Chapter 0880-5 General Rules and Regulations Governing the Utilization of X-Ray Operators in Physician's Offices</i> 0880-5-.12 Supervision | Robert J. Kraemer, Jr., OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | Nov 6, 2001 |
| 08-19 | Aug 23, 2001 | 1200 Health | Proposed Rules | Amendments | <i>Chapter 1200-10-1 General Rules and Regulations</i> | Rachel Nelley OGC 26 th Fl Snodgrass TN Twr 312 8 th Ave N Nashville, TN 37247-0120 (615) 741-1611 | Dec 28, 2001 |

ANNOUNCEMENTS

| SEQ | FILE DATE | DEPT. & DIVISION | TYPE OF FILING | DESCRIP-TION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
|-------|--------------|---|--------------------------|----------------------------|---|--|----------------|
| 08-20 | Aug 22, 2001 | 1050 Osteopathic Examination | Rulemaking Hearing Rules | Amendments | <i>Chapter 1050-3 General Rules and Regulations Governing Utilization of X-Ray Operators in Osteopathic Physicians' Offices</i> 1050-3-.01 Definitions 1050-3-.02 Scope of Practice 1050-3-.03 Certification Requirements and Exemptions 1050-3-.04 Qualifications for Full and Limited Certification 1050-3-.05 Obtaining and Upgrading Full and Limited Certification 1050-3-.07 Educational Course Approval and Curriculum for Limited Certification 1050-3-.08 Examination for Certification 1050-3-.09 Renewal of Certification 1050-3-.12 Continuing Education | Robert J. Kraemer, Jr., OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | Nov 6, 2001 |
| 08-21 | Aug 23, 2001 | 1155 Registration in Podiatry | Rulemaking Hearing Rules | Amendment New Rules | <i>Chapter 1155-2 General Rules and Regulations Governing the Practice of Podiatry</i> 1155-2-.12 Continuing Education <i>Chapter 1155-3 General Rules Governing Podiatry X-Ray Operators</i> 1155-3-.01 Scope of Practice and Certification 1155-3-.02 Education and Training Requirements 1155-3-.03 Reciprocity 1155-3-.04 Continuing Education 1155-3-.05 Renewal 1155-3-.06 Fees 1155-3-.07 Retirement and Reactivation 1155-3-.08 Disciplinary Action 1155-3-.09 Change of Address and/or Name | Glen Watson OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | Nov 6, 2001 |
| 08-22 | Aug 23, 2001 | 1200 Health Medical Laboratory Board Division of Health Related Boards | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-6-1 General Rules Governing Medical Laboratory Personnel</i> 1200-6-1-.22 Qualifications, Responsibilities and Duties of Testing Personnel | Robbie Bell OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | Nov 6, 2001 |

| SEQ | FILE DATE | DEPT. & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
|-------|--------------|---|--------------------------|-------------|---|--|----------------|
| 08-26 | Aug 24, 2001 | 0480 Dispensing Opticians | Rulemaking Hearing Rules | New Rule | <i>Chapter 0480-1</i> <i>Rules of the TN Board of Dispensing Opticians</i> 0480-1-.23 Consumer Right-To-Know Requirements | John Fitzgerald Office of General Counsel 26th Fl, Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | Nov 7, 2001 |
| 08-30 | Aug 27, 2001 | 0460 Board of Dentistry | Rulemaking Hearing Rules | Amendments | <i>Chapter 0460-2</i> <i>Rules Governing the Practice of Dentistry</i> 0460-2-.05 Examination <i>Chapter 0460-3</i> <i>Rules Governing Practice of Dental Hygienists</i> 0460-2-.05 Examination | Peggy D. DePriest Office of General Counsel 26th Fl, Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | Nov 11, 2001 |
| 08-31 | Aug 28, 2001 | 1240 Human Services Adult and Family Services Division | Rulemaking Hearing Rules | Amendments | <i>Chapter 1240-4-6</i> <i>Licensure Rules for Child Care Centers Serving School-Age Children</i> 1240-4-6-.06 Organization and Administration 1240-4-6-.07 Staff Qualifications | William Russell Citizen's Plaza Bldg 15th Fl 400 Deaderick St Nashville TN 37243-0006 615-313-4731 | Nov 11, 2001 |
| 08-32 | Aug 27, 2001 | 1240 Human Services Adult and Family Services Division | Rulemaking Hearing Rules | Amendments | <i>Chapter 1240-4-3</i> <i>Licensure Rules for Child Care Centers Serving Pre-School Children</i> 1240-4-3-.06 Organization and Administration 1240-4-3-.07 Staff Qualifications | William Russell Citizen's Plaza Bldg 15th Fl 400 Deaderick St Nashville TN 37243-0006 615-313-4731 | Nov 10, 2001 |
| 08-38 | Aug 27, 2001 | 1340 Department of Safety Division of Driver License Issuance | Proposed rules | | <i>Chapter 1340-1-13</i> <i>Classified and Commercial Driver Licenses</i> 1340-1-13-.12 Proof of Date of Birth and Identification | Wanda Adams Driver License Issuance Department of Safety 1150 Foster Ave Nashville, TN 37249-1000 615.251.5310 | Dec 28, 2001 |
| 08-42 | Aug 29, 2001 | 0800 Labor and Workforce Development Division of Occupational Safety and Health | Proposed Rules | New Rules | <i>Chapter 0800-1-3</i> <i>Occupational Safety and Health Record-keeping and Reporting</i> 0800-1-3-.01 Purpose 0800-1-3-.02 Scope 0800-1-3-.03 Recordkeeping Forms and Recording Criteria 0800-1-3-.04 Other TOSHA Injury and Illness Recordkeeping Requirements 0800-1-3-.05 Reporting Fatality, Injury and Illness Information 0800-1-3-.06 Transition From the Former Rule 0800-1-3-.07 Definitions | Michael M. Maenza Labor and Workforce Development 3rd Fl, Andrew Johnson Twr 710 James Robertson Pkwy Nashville, TN 37243-0659 (615) 741-7036 | Dec 28, 2001 |

ANNOUNCEMENTS

| SEQ | FILE DATE | DEPT. & DIVISION | TYPE OF FILING | DESCRIP-TION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
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| 08-44 | Aug 30, 2001 | 1240 Human Services Adult and Family Services Division | Rulemaking Hearing Rules | Amendments | <i>Chapter 1240-4-4</i> <i>Standards for Family Day Care Homes</i> 1240-4-4-.02 Ownership and Administration | William B. Russell Citizens Plaza Bldg, 15th Fl 400 Deaderick St Nashville, TN 37248-0006 (615) 313-4731 | Nov 13, 2001 |
| 08-45 | Aug 30, 2001 | 1200 Environment and Conservation Bureau of Environment Division of Air Pollution Control | Rulemaking Hearing Rules | New Rules | <i>Chapter 1200-3-29</i> <i>Light-Duty Motor Vehicle Inspection and Maintenance</i> 1200-3-29-.11 Waiver Provisions | Chuck J. Nington Air Pollution Control 9th Fl L & C Annex 401 Church St Nashville, TN 37243-1531 (615)532-6812 | Nov 13, 2001 |
| 08-46 | Aug 30, 2001 | 1240 Human Services Adult and Family Services Division | Rulemaking Hearing Rules | Amendments | <i>Chapter 1240-4-1</i> <i>Standards for Group Day Care Homes</i> 1240-4-1-.02 Ownership and Administration, | William B. Russell Citizens Plaza Bldg, 15th Fl 400 Deaderick St Nashville, TN 37248-0006 (615) 313-4731 | Nov 13, 2001 |
| 08-47 | Aug 30, 2001 | 0780 Commerce and Insurance Division of Insurance | Rulemaking Hearing Rules | New Rules | <i>Chapter 0780-1-72</i> <i>Privacy of Consumer Information Regulations</i> 0780-1-72-.01 Authority 0780-1-72-.02 Purpose and Scope 0780-1-72-.03 Rule of Construction 0780-1-72-.04 Definitions 0780-1-72-.05 Initial Privacy Notice to Consumers Required 0780-1-72-.06 Annual Privacy Notice to Customers Required 0780-1-72-.07 Information to be Included in Privacy Notices 0780-1-72-.08 Form of Opt Out Notice to Consumers and Opt Out Methods 0780-1-72-.09 Revised Privacy Notices 0780-1-72-.10 Delivery 0780-1-72-.11 Limitation on Disclosure of Nonpublic Personal Information to Nonaffiliated Third Parties 0780-1-72-.12 Limits on Re-disclosure and Reuse of Nonpublic Personal Information 0780-1-72-.13 Limits on Sharing Account Number Information for Marketing Purposes | Robert E. Moore Office of Legal Counsel 25 th Fl TN Twr 312 8th Ave, N Nashville, TN 37243 615-741-2199 | Nov 13, 2001 |

| SEQ | FILE DATE | DEPT. & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
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| 08-47, cont. | | | | | 0780-1-72-.14 Exception to Opt Out Nonpublic Personal Information for Service Providers and Joint Marketing 0780-1-72-.15 Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Information for Processing and Servicing Transactions 0780-1-72-.16 Other Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Information | | |
| 08-48 | Aug 30, 2001 | 1255 Real Estate Appraiser Commission | Public Necessity Rules | Amendments | <i>Chapter 1255-6 Reciprocity</i> 1255-6-.02 Temporary Practice Permits | Christy A. Allen Regulatory Boards TN Twr, 25th Fl 312 8th Ave, N Nashville, TN 37243 615-741-3072 | August 30, 2001 through Feb 11, 2002 |
| 08-49 | Aug 31, 2001 | 0520 Board of Education | Proposed Rule | Amendment | <i>Chapter 0520-1-3 Minimum Requirements for the Approval of Public Schools</i> 0520-1-3-.03 Administration of Schools, Requirement B | Karen Weeks State Board of Education 9th Fl, Andrew Johnson Twr 710 James Robertson Pkwy Nashville, TN, 37243-1050 (615) 532-3528 | Dec 28, 2001 |
| 08-50 | Aug 31, 2001 | 0520 Board of Education | Proposed Rule | Amendment | <i>Chapter 0520-1-3 Minimum Requirements for the Approval of Public Schools</i> 0520-1-3-.06 Graduation, Requirement E | Karen Weeks State Board of Education 9th Fl, Andrew Johnson Twr 710 James Robertson Pkwy Nashville, TN, 37243-1050 (615) 532-3528 | Dec 28, 2001 |
| 08-52 | Aug 31, 2001 | 0520 Board of Education | Proposed Rule | Amendment | <i>Chapter 0520-2-4 Licensure</i> 0520-2-4-.03 Interim License and Permit | Karen Weeks State Board of Education 9th Fl, Andrew Johnson Twr 710 James Robertson Pkwy Nashville, TN, 37243-1050 (615) 532-3528 | Dec 28, 2001 |
| 08-53 | Aug 31, 2001 | 0520 Board of Education | Proposed Rule | Amendment | <i>Chapter 0520-2-4 Licensure</i> 0520-2-4-.05 The Praxis Series: Professional Assessments for Beginning Teachers | Karen Weeks 9th Fl, Andrew Johnson Twr 710 James Robertson Pkwy Nashville, TN, 37243-1050 (615) 532-3528 | Dec 28, 2001 |

ANNOUNCEMENTS

| SEQ | FILE DATE | DEPT. & DIVISION | TYPE OF FILING | DESCRIP-TION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
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| 08-54 | Aug 31, 2001 | 0520 Board of Education | Proposed Rule | Amendment | <i>Chapter 0520-7-2 Non-Public School Approval Process 0520-7-2-.03 Category II: Agency Approval</i> | Karen Weeks State Board of Education 9th Fl, Andrew Johnson Twr 710 James Robertson Pkwy Nashville, TN, 37243-1050 (615) 532-3528 | Dec 28, 2001 |
| 08-55 | Aug 31, 2001 | 0400 Environment and Conservation Bureau of Environment Division of Air Pollution Control | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-3-34 Conformity 1200-3-34-.01 Conformity of Transportation Plans, Programs, and Projects</i> | Mr. Chuck Nington Air Pollution Control 9th Fl L & C Annex 401 Church St Nashville, TN 37243-1531 (615)532-0575 | Nov 14, 2001 |
| 08-56 | Aug 31, 2001 | 1700 Treasury Department Retirement Division | Proposed Rules | New Rules Amendments | <i>Chapter 1700-3-1 TN Consolidated Retirement System 1700-3-1-.30 Direct Deposit of Benefits 1700-3-1-.29 Purchase of Prior Service through Monthly Installments.</i> | Mary Krause General Counsel 10th Fl, Andrew Jackson Bldg Nashville, TN 37243-0230 (615) 741-7063 | Dec 28, 2001 |
| 08-57 | Aug 31, 2001 | 100 Board of Nursing | Rulemaking Hearing Rules | Amendments | <i>Chapter 1000-1 Rules And Regulations Of Registered Nurses 1000-1-.11 Definitions 1000-1-.14 Standards of Nursing Competence Chapter 1000-2 Rules and Regulations of Licensed Practical Nurses 1000-2-.11 Definitions 1000-2-.14 Standards of Nursing Competence</i> | John Fitzgerald OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | Nov 14, 2001 |
| 08-64 | Aug 31, 2001 | 1200 Health Medical Laboratory Board | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-6-1 General Rules Governing Medical Laboratory Personnel 1200-6-1-.06 Fees Chapter 1200-6-3 General Rules Governing Medical Laboratories 1200-6-3-.02 Licensing Procedures</i> | Tracey Boyers-Heathman, OGC 26th Fl, Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | Nov 14, 2001 |

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

Applications will be heard at the October 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 August 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

Jackson Eye Surgery Center, LLC
403 North Parkway
Jackson (Madison Co.), TN 38305
E. Graham Baker, Jr., - (615)—383-3332
CN0106-041

The establishment of an ambulatory surgical treatment center (ASTC) and the initiation of outpatient surgery limited to ophthalmic procedures located at 403 North Parkway, Jackson, Madison County, Tennessee. The ASTC will contain two (2) operating rooms and will consist of approximately 3,694 square feet of space.
\$ 1,964,471.00

LaFollette Medical Center, Inc. d/b/a St. Mary's
Medical Center of Campbell County
923 Central Avenue
LaFollette (Campbell Co.), TN 3766
Nicholas P. Lewis - (423)—566-1112
CN0107-046

The initiation of geriatric psychiatric services at St. Mary's Medical Center of Campbell County located at 923 Central Avenue, LaFollette, Tennessee. The hospital will convert an 11-bed medical-surgical unit to a 10-bed geriatric psychiatric unit. If approved, the licensed bed capacity of this hospital will decrease from 67-beds to 66-beds.
\$ 490,237.00

| NAME AND ADDRESS | DESCRIPTION |
|---|--|
| Children's West Surgery Center 9701 Westland Drive Knoxville (Knox Co.), TN 37922 Rudy McKinley – (865)—541-8492 CN0107-047 | The establishment and operation of an ambulatory surgery treatment center (ASTC) for the purpose of pediatric outpatient surgery at 9701 Westland Drive, Knoxville (Knox County), Tennessee. The ASTC will contain two operating rooms. \$ 2,777,772.00 |
| Westwood Health Care Center 524 West Main Street Decaturville (Decatur Co.), TN 38329 Donald B. Ross – (615)—377-9191 CN0107-048 | The addition of fourteen (14) dually certified nursing home beds to the existing eighty (80) intermediate "Medicaid" beds for a total of ninety-four (94) licensed nursing home beds at Westwood Health Care Center, 524 West Main Street, Decaturville, Tennessee. \$ 28,500.00 |
| Gateway Medical Center 1771 Madison Street Clarksville (Montgomery Co.), TN 37043 John Wellborn – (615)—665-2022 CN0107-049 | The addition of twenty-seven (27) acute care hospital beds and the initiation of rehabilitation services. Thirteen (13) of the twenty-seven (27) beds will be dedicated to the rehabilitation service. The other fourteen will be used as medical-surgical beds. The hospital will delicense the twenty-nine (29) bed skilled nursing facility if this application is approved. \$ 301,000.00 |
| HealthStar Physicians, P.C. 420 West Morris Blvd., Suite 400-A Morristown (Hamblen Co.), TN 37813 Jerry W. Taylor – (615)—726-1200 CN0107-050 | The initiation of in-house magnetic resonance imaging services and the acquisition of a magnetic resonance imaging unit to be placed in space immediately adjacent to the clinical offices of HealthStar Physicians, P.C., 420 West Morris Boulevard, Suite 400A, Morristown, Hamblen County, Tennessee. \$ 1,843,828.00 |
| Middle Tennessee Medical Center 400 N. Highland Avenue Murfreesboro (Rutherford Co.), TN 37130 E. Graham Baker, Jr. – (615)—383-3332 CN0107-051 | The acquisition of a second linear accelerator at Middle Tennessee Medical Center. The linear accelerator will be housed in shelled in space at the Cancer Center which is located at 509 East Belle Street, Murfreesboro, Tennessee. \$ 2,116,614.00 |
| Baptist Memorial Hospital – Lauderdale 326 Asbury Road Ripley (Lauderdale Co.), TN 38063 Zachary Chandler – (731)—221-2400 CN0107-052 | The initiation of mobile magnetic imaging services one day per week. This service will be provided at Baptist Memorial Hospital-Lauderdale, 326 Asbury Road, Ripley, Tennessee. \$ 225,000.00 |

NAME AND ADDRESS

*Community Behavioral Health, LLC
135 Pauline Street North
Memphis (Shelby Co.), TN 38105
Kim Harvey Looney – (615)—259-1450
CN0107-054

DESCRIPTION

The change of site of a 50-bed adult psychiatric hospital currently located on the 19th floor of Baptist Hospital-Midtown, 899 Madison Avenue, Memphis, Shelby County, Tennessee. The new location is 135 Pauline Street North, Memphis, Shelby County, Tennessee.
\$ 1,014,000.00

Blank

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 0080 - Department of Agriculture - Division of Animal Industries - Emergency rules regarding the threat of foot and mouth disease, Chapter 0080-2-1 Health Requirements For Admission And Transportation Of Livestock And Poultry, 5 T.A.R. (May 2001) - Effective April 4, 2001 through September 16, 2001. (04-01)

- 1340 - Department of Safety - Division of Driver License Issuance - Emergency rules dealing with verification of residence and identification, Chapter 1340-1-13 Classified and Commercial Driver Licenses, 7 T.A.R. (July 2001) - Effective June 22, 2001 through December 4, 2001. (06-29)

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PROPOSED RULES

STATE BOARD OF EDUCATION - 0520

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

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

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

The text of the proposed rule is as follows:

AMENDMENT

Paragraph (4) of Rule 0520-1-3-.03 Administration of Schools, Requirement B is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (4) Planning Time
 - (a) Local boards of education shall provide full-time classroom teachers in grades kindergarten through 12 with duty-free planning periods during the established instructional day.
 - (b) Planning time shall consist of 2½ hours each week during which teachers have no other assigned duties or responsibilities other than planning for instruction. The 2½ hours may be divided on a daily or other basis.
 - (c) Duty-free planning time shall not occur during any period that teachers are entitled to duty-free lunch.
 - (d) Any school system which is providing a duty-free planning period by extending the school day by 30 minutes as of the beginning of the 2000-01 school year may continue such practice and satisfy the planning time requirements.
 - (e) The director of schools shall report annually to the department of education regarding compliance with the duty-free planning time requirement.

Authority: T.C.A. §49-1-302.

The proposed rules set out herein were properly filed in the Department of State on the 31st day of August, 2001, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-49)

BOARD OF EDUCATION - 0520

CHAPTER 0520-1-3

MINIMUM REQUIREMENTS FOR THE APPROVAL OF PUBLIC SCHOOLS

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

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

The text of the proposed rule is as follows:

AMENDMENTS

Item (V) of subpart (ii) of part 3 of subparagraph (f) of paragraph (1) of Rule 0520-1-3-.06 Graduation, Requirement E is amended by deleting item (V) in its entirety and substituting the following language so that as amended the item shall read:

(V) Early Childhood Education Careers I, II, III

Subpart (vii) of part 8 of subparagraph (f) of paragraph (1) of Rule 0520-1-3-.06 Graduation, Requirement E is deleted in its entirety.

Subpart (ix) of part 8 of subparagraph (f) of paragraph (1) of Rule 0520-1-3-.06 Graduation, Requirement E is deleted in its entirety.

Part 8 of subparagraph (f) of paragraph (1) of Rule 0520-1-3-.06 Graduation, Requirement E is amended by adding the following language as subpart (xiii) so that as amended the rule shall read:

- (xiii) Human Services
 - Legal and Protective Service Careers I, II, III
 - Principles of Cosmetology
 - Design Principles of Cosmetology
 - Chemistry of Cosmetology

Authority: T.C.A. §49-1-302.

The proposed rules set out herein were properly filed in the Department of State on the 31st day of August, 2001, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-50)

BOARD OF EDUCATION - 0520

CHAPTER 0520-2-4 LICENSURE

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

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

The text of the proposed rule is as follows:

AMENDMENT

Paragraph (1) of Rule 0520-2-4-.03 Interim License and Permit is amended by adding a new subparagraph (f) so that as amended the subparagraph shall read:

- (f) Interim A, Interim C, and Interim E licenses for Pre-Kindergarten Teachers.
1. The applicant who seeks employment in a state approved pre-kindergarten program or a program receiving a state early childhood education grant may be issued an Interim A License, Interim C License, or Interim E License endorsed in PreK-4.
 2. The director of schools or the director of the program receiving a state early childhood education grant must state intent to employ the applicant in a pre-kindergarten program and fulfill all other obligations under the Interim A License, Interim C License, or Interim E License.

Authority: T.C.A. §49-1-302.

The proposed rules set out herein were properly filed in the Department of State on the 31st day of August, 2001, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-52)

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

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

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

The text of the proposed rule is as follows:

AMENDMENT

Paragraph (5) of Rule 0520-2-4-.05 The Praxis Series: Professional Assessments for Beginning Teachers is amended by deleting the paragraph in its entirety and substituting instead the following language so that as amended the paragraph shall read:

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

| Tennessee Educator Licensure Examinations | | | | |
|--|-------------------------------|--|---------------------------------|------|
| Test Code | Endorsement Area | Test Title | Minimum Qualifying Score | |
| | | | Effective Date Sept. 1 | |
| 0522 | All Areas (See Note) | Principles of Learning and Teaching, K-6 or | 155 | 1998 |
| 0523 | | Principles of Learning and Teaching, 5-9 or | 154 | 1999 |
| 0524 | | Principles of Learning and Teaching, 7-12 | 159 | 1998 |
| 1010 | Administrator | School Leader Licensure Assessment | 156 | 2001 |
| 0700 | Agricultural Education | Agriculture | 530 | 1998 |
| 0133 | Art | Art: Content Knowledge | 150 | 1998 |
| 0132 | Art | Art: Content, Traditions, Criticism & Aesthetics | 140 | 2001 |
| 0131 | Art | Art: Art Making | 155 | 2001 |
| 0235 | Biology | Biology: Content Knowledge | 148 | 2002 |
| 0233 | Biology | Choice of Biology Content Essays or | 146 | 1999 |
| 0433 | Biology | General Science Content Essays | 130 | 1999 |
| 0100 | Business/Accounting | Business Education | 570 | 1996 |
| 0245 | Chemistry | Chemistry: Content Knowledge | 152 | 2002 |
| 0431 | Chemistry | General Science: Content Knowledge, Part 1 | 138 | 1995 |
| 0020 | Early Childhood Education | Early Childhood Education | 570 | 1996 |
| 0011 | Early Childhood Education | Elementary Education: Curriculum Instruction and Assessment | 159 | 2001 |
| 0014 | Early Childhood Education | Elementary School: Content Knowledge | NM | 2001 |
| 0571 | Earth Science | Earth Science: Content Knowledge | 146 | 2002 |
| 0431 | Earth Science | General Science: Content Knowledge, Part 1 | 138 | 1998 |
| 0910 | Economics | Economics | 530 | 2002 |
| 0011 | Elementary Education K-8, 1-8 | Elementary Education: Curriculum, Instruction, and Assessment | 159 | 1998 |
| 0012 | Elementary Education K-8, 1-8 | Elementary Education: Content Area Exercises | 138 | 2001 |
| 0014 | Elementary Education K-8, 1-8 | Elementary School: Content Knowledge or | NM | 2001 |
| 0146 | | Middle School: Content Knowledge Instruction, and Assessment | 150 | 2001 |
| 0041 | English | Language, Literature, Composition: Content Knowledge | 157 | 1995 |
| 0042 | English | Language, Literature, Comp.: Essays | 150 | 1999 |
| 0043 | English | Language, Literature, Comp.: Pedagogy | 145 | 1999 |
| 0360 | English as a Second Language | Teaching English as a Second Language | 530 | 1999 |
| 0920 | Geography | Geography | 520 | 1996 |
| 0930 | Government | Government/Political Science | 560 | 1996 |
| 0550 | Health | Health Education | 570 | 1997 |
| 0940 | History | World and U.S. History | 490 | 2002 |
| 0120 | Home Economics | Home Economics Education | 580 | 1996 |
| Languages: | | | | |
| 0173 | French | French: Content Knowledge | 160 | 1998 |
| 0171 | French | French: Productive Language Skills | 165 | 2001 |
| 0181 | German | German: Content Knowledge | 139 | 1998 |
| 0600 | Latin | Latin | 540 | 1996 |
| 0191 | Spanish | Spanish: Content Knowledge | 152 | 1995 |
| 0192 | Spanish | Spanish: Productive Language Skills | 154 | 1999 |
| 0310 | Librarian | Library Media Specialist | 600 | 2000 |

| Test Code | Endorsement Area | Test Title | Minimum Qualifying Score | |
|-----------|---|--|--------------------------|---------|
| | | | Effective Date | Sept. 1 |
| 0560 | Marketing | Marketing Education | 640 | 1999 |
| 0061 | Mathematics | Mathematics: Content Knowledge | 136 | 1995 |
| 0065 | Mathematics | Mathematics: Pedagogy | 125 | 1999 |
| 0146 | Middle Grades 5-8 | Middle School: Content Knowledge | 150 | 2000 |
| 0113 | Music | Music: Content Knowledge | 150 | 1998 |
| 0111 | Music | Music: Concepts and Processes | 145 | 2001 |
| 0091 | Physical Education | Physical Education: Content Knowledge | 152 | 1995 |
| 0092 | Physical Education | Physical Education: Movement Forms - Analysis & Design | 148 | 1999 |
| 0265 | Physics | Physics: Content Knowledge | 144 | 2002 |
| 0262 | Physics | Choice of Physics: Content Essays or | 135 | 1999 |
| 0433 | Physics | General Science Content Essays | 130 | 1999 |
| 0390 | Psychology | Psychology | 560 | 1997 |
| 0420 | School Counselor | School Guidance and Counseling | 580 | 1996 |
| 0400 | School Psychologist | School Psychologist | 590 | 1998 |
| 0950 | Sociology | Sociology | 540 | 1996 |
| 0351 | Special Education: All Special Education Areas (See Note) | Special Education: Knowledge-Based Core Principles | 145 | 1999 |
| 0352 | | Special Education: Applications of Core Principles | 140 | 1999 |
| 0271 | Hearing | Special Education: Education of Deaf and Hard of Hearing Students | 163 | 2001 |
| 0690 | Preschool/Early Childhood | Special Education: Preschool/Early Childhood | 560 | 1997 |
| 0330 | Speech/Language | Speech-Language Pathology | 600 | 2000 |
| 0280 | Vision | Special Education: Teaching Students with Visual Impairments | 700 | 2001 |
| 0220 | Speech | Speech Communications | 570 | 1998 |
| 0050 | Technology Education | Technology Education | 580 | 1996 |
| 0640 | Theatre | Theatre | 610 | 1997 |

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

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

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

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

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

Authority: T.C.A. §49-1-302.

The proposed rules set out herein were properly filed in the Department of State on the 31st day of August, 2001, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-53)

BOARD OF EDUCATION - 0520**CHAPTER 0520-7-2
NON-PUBLIC SCHOOL APPROVAL PROCESS**

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

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

The text of the proposed rule is as follows:

AMENDMENT

Item (V) of subpart (v) of part 9 of subparagraph (c) of paragraph (6) of Rule 0520-7-2-.03 Category II: Agency Approval is amended by deleting the item in its entirety and substituting instead the following language so that as amended the item shall read:

- (V) The maximum enrollments for an individual class shall be specified, shall not be subject to waiver, and shall not exceed the following:

Kindergarten through grade 3:25 students

Grade 4:28 students

Grades 5 through 6:30 students

Grades 7 through 12:35 students

Vocational education, grades 7 through 12:28 students; the average daily membership for any full-time vocational teacher shall not exceed 23 students.

Authority: T.C.A. §49-1-302.

Douglas E. Wood, Ed.D

The proposed rules set out herein were properly filed in the Department of State on the 31st day of August, 2001, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-54)

THE TENNESSEE REGISTRY OF ELECTION FINANCE - 0530

CHAPTER 0530-1-3 CAMPAIGN FINANCE RULES

Presented herein are proposed rules of the Registry of Election Finance submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Registry of Election Finance to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed in Suite 1614 of the Parkway Towers Building located at 404 James Robertson Parkway, Nashville, TN 37243-1360, and in the Department of State, Eighth Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of these proposed rules, contact: Drew Rawlins, 404 James Robertson Parkway, Suite 1614, Nashville, TN 37243-1360, Registry of Election Finance, (615) 741-7959.

The text of the proposed rules is as follows:

NEW RULES

TABLE OF CONTENTS

| | | | |
|--------------|---------------------------------------|--------------|--|
| 0530-1-3-.01 | Elections | 0530-1-3-.05 | Bookkeeping Procedures |
| 0530-1-3-.02 | Campaign Contributions | 0530-1-3-.06 | Disclosure of Affiliation of Multicandidate Political Campaign Committees (PACs) |
| 0530-1-3-.03 | Attribution of Campaign Contributions | 0530-1-3-.07 | Independent Campaign Expenditures |
| 0530-1-3-.04 | Certification of Political Treasurer | | |

0530-1-3-.01 ELECTIONS.

- (1) A primary election, general election, run-off election or special election is each considered a separate election with separate contribution limits.

Authority: T.C.A. §§2-10-207(1), 2-10-102(4), 2-10-302 and 2-10-306(a)

0530-1-3-.02 CAMPAIGN CONTRIBUTIONS.

- (1) Contributions from a candidate's family members are subject to the same dollar limitations as contributions from any other individual.
- (2) A child under eighteen (18) years of age may make contributions from monies he/she owns or controls if the child knowingly and voluntarily makes such contributions. Children may not use funds provided as a gift to them for the purpose of making a contribution.
- (3) If a person is a candidate for more than one state or local office, an individual or multicandidate political campaign committee may make contributions which do not exceed the dollar limits as set forth in T.C.A. §§2-10-302 and 2-10-306, to the candidate or his/her authorized political committees for each election for each office, as long as:

- (a) Separate campaign bank accounts are maintained for each campaign.
 - (b) Each campaign shall have different and distinct campaign names (i.e. John Doe for State Senate and John Doe for Property Assessor).
 - (c) Separate contribution checks must be written to each separate campaign.
- (2) A candidate who accepts contributions for an election in a particular election year may not accept contributions for the same office in any future election year until the completion of all elections in which the candidate is involved in the present election year. (I.e. An individual who is a candidate in a 2000 election cannot collect monies for the 2002 elections for the same office until all the 2000 elections in which the person is a candidate have been completed for that office.)
 - (3) A member of the General Assembly is prohibited from soliciting or accepting contributions for his or her candidacy for local office during the period specified in T.C.A. §2-10-310(a).

Authority: T.C.A. §§2-10-206(5), 2-10-207(1), 2-10-302(a) and 2-10-309

0530-1-3-.03 ATTRIBUTION OF CAMPAIGN CONTRIBUTIONS.

- (1) A candidate's campaign financial disclosure report must disclose the particular election for which each itemized contribution is allocated. The Registry staff will return a campaign financial disclosure report to a candidate for such designations if the allocations are not indicated on the report.
- (2) If a candidate has outstanding loans and/or obligations after an election cycle, the candidate may accept additional monies for that election cycle up to the amount necessary to pay off those outstanding loans and/or obligations, not exceeding the limits set forth in T.C.A. §§2-10-302 and 2-10-306. Any monies received by the candidate that exceed the amount necessary to repay outstanding loans and/or obligations from a previous election cycle may be applied by the candidate to his/her next election cycle, used for constituent services or expended as surplus campaign funds as provided in T.C.A. §2-10-114.
- (3) Contributions made by written instrument, such as a check, shall be attributed to the payor of the instrument, unless otherwise indicated.
- (4) Any reduction in the unpaid balance of a loan shall reduce proportionally the amount endorsed or guaranteed by each endorser or guarantor. Once the loan is repaid in full, the guarantee or endorsement no longer counts against such guarantor's or endorser's contribution limits.

Authority: T.C.A. §§2-10-207(1), 2-10-309 and 2-10-304(b)

0530-1-3-.04 CERTIFICATION OF POLITICAL TREASURER.

- (1) After a candidate completes his/her last election in an election year, a candidate must file an "Appointment of Political Treasurer's Statement" to certify the name of the campaign treasurer with the Registry and/or local county election commission, as appropriate, before the candidate may receive any additional contributions for a future election or for constituent services, unless the candidate has an outstanding loan or obligation from a prior election. The candidate may utilize the same individual as political treasurer that has been used in a past election cycle, but the new designation of treasurer must be filed.

Authority: T.C.A. §§ 2-10-207(1), 2-10-105(e) and 2-10-105(g)

0530-1-3-.05 BOOKKEEPING PROCEDURES.

- (1) A candidate must adopt a record-keeping system to distinguish between contributions made for a primary election and those made for a general election. Contributions received for a general election may not be spent in the preceding primary election, but any funds remaining from a primary election may be used in a subsequent general election.
- (2) A candidate through his/her record-keeping system must be able to determine the aggregate amount of contributions received per election from each contributor.
- (3) A candidate must have a bookkeeping system in place documenting contributions and expenditures. The Registry recommends that candidates and their committees maintain copies of all contributions received or in the alternative a journal or listing of contributions and expenditures.

Authority: T.C.A. §§2-10-206(5), 2-10-207(1) and 2-10-105(f)

0530-1-3-.06 DISCLOSURE OF AFFILIATION OF MULTICANDIDATE POLITICAL CAMPAIGN COMMITTEES (PACS)

- (1) When registering as a multicandidate political campaign committee (PAC), a committee must disclose its affiliation with any other PACs and provide the names and addresses of those PACs. Such affiliations must be disclosed in the PAC's appointment of political treasurer statement. A committee must notify the Registry if it later becomes affiliated with any other PACs and provide the names and addresses of those PACs within thirty (30) days of the affiliation occurring.

Authority: T.C.A. §§2-10-207(1), 2-10-102(13) and 2-10-303(4)

0530-1-3-.07 INDEPENDENT CAMPAIGN EXPENDITURES

- (1) "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request of, or suggestion of, a candidate or any agent or authorized committee of such candidate.
- (2) "Expressly advocating" means any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as "vote for", "elect", "support", "cast your ballot for", or "vote against", "defeat" or "reject".
- (3) "Clearly identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.
- (4) "Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate" means:
 - (a) Any arrangement, coordination, or direction by the candidate or his/her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is:

1. Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agent(s), with a view toward having an expenditure made; or
 2. Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of any authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent.
- (5) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.
- (6) An expenditure not qualifying under this section as an independent expenditure shall be an in-kind contribution to the candidate.
- (7) No expenditure by an authorized committee of a candidate on behalf of that candidate shall qualify as an independent expenditure.
- (8) Every political committee, which makes independent expenditures, shall report all such expenditures on campaign disclosure reporting forms pursuant to T.C.A. §2-1-105(d). Independent expenditures totaling more than \$100 to a single payee during a reporting period made to support or oppose a clearly identified candidate shall be itemized, disclosing the name and address of the payee, the purpose, date and amount of the expenditure and the office sought by the candidate. Those independent expenditures totaling \$100 or less to a single payee during a reporting period shall be reported as a total by categories.

Authority: T.C.A. §§2-10-105(d), 2-10-107(c), 2-10-107(d), 2-10-207(1) and 2-10-303(5)

The proposed rules set out herein were properly filed in the Department of State on the 29th day of August, 2001, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-10).

DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620

CHAPTER 0620-3-6 FAMILY VIOLENCE SHELTER STANDARDS

Presented herein are proposed rules of the Department of Finance and Administration submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the department to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed in the Department of Finance and Administration, Office of the General Counsel, Suite 2100, William R. Snodgrass Tennessee Tower located at 312 8th Avenue North, Nashville, Tennessee 37243 and in the Department of State, 8th floor, William R. Snodgrass Tennessee Tower, 312 8th Avenue North, Nashville Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: April Woodruff, Office of the General Counsel, Department of Finance and Administration, Suite 2100, William R. Snodgrass Tennessee Tower, 312 8th Avenue North, Nashville, Tennessee 37243, (615) 741-0320.

The text of the proposed rules is as follows:

NEW RULES

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0620-3-6-.01 BACKGROUND AND PURPOSE

- (1) In July 1998, the Tennessee Department of Finance and Administration was designated the single state agency to administer the family violence programs funded with State monies under Public Chapter 930, Acts of 1984 (T.C.A. 71-6-201, et seq.) and for administering the Federal funds under the Family Violence Prevention and Services Act. The Department of Human Services previously administered these funds and had convened a subcommittee of the Family Violence and Child Abuse Prevention Advisory Committee to develop performance standards for family violence shelters and shelter services which obtained funding from this legislation.
- (2) These performance standards developed for family violence shelters and shelter services are stated as minimum requirements to be addressed in order to receive funding from State and Federal family violence sources. Services provided through other funding sources or to individuals deemed ineligible under State or Federal guidelines are not subject to these performance standards.
- (3) These performance standards:
 - (a) provide a framework within which family violence shelters can develop a secure environment for resi-

- dents and within which quality shelter services can be organized, delivered and evaluated;
- (b) define and describe the components of the service; and
 - (c) delineate requirements which must be met during the service delivery process.
- (4) Compliance with these standards is a condition of the contract between the Department and each agency which provides a family violence shelter and/or shelter services. Each agency must meet all the requirements established by the standards in order to be in full contractual compliance.

Authority: Public Acts of 1998, Chapter 1135, Section 41, Item 44, T.C.A. §4-5-202 and T.C.A. §71-6-203(7).

0620-3-6-.02 INDIVIDUAL ELIGIBILITY REQUIREMENTS FOR FAMILY VIOLENCE SHELTER AND/OR SHELTER SERVICES

- (1) To receive shelter and/or services, an individual (victim) must customarily reside in a household with the perpetrator; and be
- (2) An individual who has had his/her welfare put at risk by the perpetrator, or upon whom the perpetrator has caused or attempted to cause bodily injury or has established fear of imminent physical harm by threat or action.
- (3) Individuals are eligible for services if they meet the above requirements, and are adults eighteen years of age or older or emancipated minors, regardless of sex, mental functioning, or handicap; or are
- (4) Children or dependent of the eligible individual.
- (5) Some eligible individuals may be subject to Referral Services, as provided in rule 0620-3-6-.05(2)(b).

Authority: T.C.A. §4-5-202; T.C.A. §71-6-203.

0620-3-6-.03 PROGRAM REQUIREMENTS FOR FUNDING

Family violence programs funded with State monies under Title 71 Chapter 6 of Tennessee Code Annotated shall include, at minimum, a family violence shelter as defined below and a series of shelter services considered vital to the needs of the victim, children and dependents. Shelter services shall be available to eligible individuals whether or not residency in a shelter is required. Shelter services may be provided within a shelter facility and/or outside a shelter facility. Minimum standards for Family Violence Shelters and Shelter Services as stated in rule 0620-3-6-.04 and 0620-3-6-.05, must be met in order to receive State funding. Eight core services must be provided for victims of family violence in a family violence program: Shelter, Telephone Crisis Hotline, Referral, Counseling for Family Violence Victims, Advocacy for Family Violence Victims, Transportation Arrangements, Follow-up, and Community Education.

Authority: T.C.A. §4-5-202; T.C.A. §71-6-203.

0620-3-6-.04 MINIMUM STANDARDS FOR FAMILY VIOLENCE SHELTERS

- (1) Definitions - For purposes of this chapter, a Family Violence Shelter is a place where only family violence victims, their children, and dependents can seek temporary refuge 24 hours a day, seven days a week, 365 days a year. This definition includes a program which operates a shelter under which safe homes or commercial lodgings are used as a refuge for family violence victims, their children and dependents. Commercial lodging is the least acceptable

residential service to be provided. Standards which apply to safe homes and commercial lodging are outlined in paragraphs 3 and 4. Shelter facilities must have confidential locations and be located in separate facilities that exclusively serve family violence victims and their dependents. Eligible programs must have some form of shelter at the time of application with definite plans of opening a facility with a confidential location.

(2) Physical Plant-Shelter

(a) The Department shall review shelter programs to determine compliance with certain requirements pertaining to fire, health and safety. Compliance with the requirements of Chapter 21 of the Life Safety Code (Fire Standards) to become effective July 1, 1992, incorporated herein by reference, however, shall not relieve the agency from the legal responsibility of complying with all other applicable health and safety codes and standards. The following requirements will be monitored by the Department.

1. No lead paint or peeling paint in the shelter or on shelter walls, furniture, cabinets, doors, windows, stairs, and porches; and
2. All hazardous material must be safely secured and stored away from the reach of children.
3. All electrical outlets not in use must contain child proof plugs.

(b) A shelter program must have arrangements for the provision of food. In a shelter, this includes access to cooking facilities, refrigeration and utensils or equipment.

(c) A shelter program must have bathing, lavatory and toilet facilities available on the premises. The shelter program will provide access to laundry facilities.

(a) A shelter program must have sleeping beds available for each person in residence. Cribs or playpens must be available for infants and toddlers.

(b) A shelter program must provide a centrally located secure storage for medication belonging to residents.

(f) A shelter program must provide residents access to telephone communications.

(g) A shelter program must provide that all external entrances or exits, including doors, windows, skylights, cellars, etc., are securable.

(h) A shelter program must provide access to supplies for personal hygiene of the residents.

(i) A shelter program must provide a reasonably safe and comfortable environment in which to reside, which includes heat, ventilation, and cleanliness. A shelter must have adequate heating and equipment to be comfortable whenever necessary. A shelter must have carbon monoxide detectors installed and centrally located, if gas appliances are used.

(j) A shelter program must prohibit possession and use of weapons, alcohol or illegal drugs on its premises.

(k) A shelter program must have a secure play space for children and appropriate play equipment.

(3) Program-Shelter, Safe Home, Commercial Lodging

(a) A shelter program must provide all residents of their facility an orientation to the premises. This orien-

- tation will also include an explanation of facility rules, rights and responsibilities of the residents and the operating procedure of the facility.
- (b) A shelter program must have a written policy which establishes 24 hour immediate access to staff or trained volunteers. This access may include an individual on the premises or on-call. This access must be available to residents in shelters, safe homes, or commercial lodging. This policy must be made available to all residents.
 - (c) A shelter program must have a written plan for fire and/or tornado evacuation. Evacuation plans must be posted; and reviewed during orientation. Fire and tornado drills must be held periodically.
 - (d) A shelter program must have a written policy concerning the security of resident's belongings.
 - (e) A shelter program must have a written policy which provides for security and confidentiality of residents' location. This policy must include procedures regarding intruders or trespassers, contact with law enforcement, and access to staff or the designated person 24 hours a day.
 - (f) A shelter program must provide access to a telephone and have a written policy for utilization of the telephone by residents.
 - (g) A shelter must have a written policy and procedure for emergency medical needs and routine medical needs of shelter residents.
 - (h) A shelter program must have services for child residents which include:
 - 1. Staff or volunteers trained to meet needs of children.
 - 2. Provisions of counseling and/or advocacy for children.
 - 3. Provisions for adequate and secure indoor play space and recreational activities. Outdoor space, where available, should be adequate and secure.
 - 4. Age appropriate intervention activities based on needs of individual child.
 - 5. Written policy concerning educational plan for children in the shelter.
 - 6. Written policy concerning non-violent discipline to be practiced by staff and residents alike.
 - 7. Written policy regarding child care.
 - 8. Written policy and procedure regarding and requiring reporting of child abuse to the Department of Children's Services.
 - 9. Written policy regarding the rights and responsibilities of children and an orientation of these children, where age appropriate, to these rights and responsibilities.
 - 10. Provision of infant care seats when transporting young children.
- (4) Safe Homes/Commercial Lodging - Standards described in section 3 apply to shelter, safe homes, and commercial lodging as residential services. Additional standards specifically for safe homes and commercial lodging include:

- (a) The shelter program must have a written process for the selection and continued evaluation of safe homes.
- (b) The shelter program must provide adequate and appropriate training for safe home providers.
- (c) Safe home providers must have a written statement of rights and responsibilities provided by the shelter program.
- (d) Safe homes must provide sleeping privacy for guests and access to bathing and laundry facilities, food and telephone access.
- (e) The shelter program will assure that residents of a safe home system or commercial lodging have equal access to all the core services including daily contact by staff or trained volunteer.
- (f) Although commercial lodging is available for use by shelter programs, it is the least preferable type of residential service. Programs are encouraged to develop a safe home network system or ideally a shelter facility for permanent residential services to assure quality service delivery.

Authority: T.C.A. §4-5-202; T.C.A. §71-6-201, 71-6-203(7), 71-6-204, and Public Acts of 1998, Chapter 1135, Section 41, Item 44.

0620-3-6-.05 MINIMUM REQUIREMENTS FOR SHELTER SERVICES

- (1) Definitions - For purposes of this chapter, Shelter Services are activities which are provided to eligible victims of family violence, their children and dependents as part of an organized program which may or may not include residential services through a family violence shelter. The program of shelter services should be organized to include all of the described core services which are basic to the needs of the victim, their children and dependents.
- (2) Core Services
 - (a) Twenty-four Hour Access to Telephone Crisis Hotline. This service may be a contracted service, may be operated directly by staff or trained volunteers, or may be on call forwarding system if available. Answering machines may not be used, except in localities where call forwarding is not available. Then, the answering machine may be used only for restricted periods of time, up to a maximum of one hour per usage. The immediate return of calls received on an answering machine or through the contracted service is required.
 - (b) Referral. Appropriate linkage and access to community resources to meet the needs of the victims or their children or dependents is required. These linkages may include community services such as medical, legal, judicial, mental health, educational, housing, employment, financial and in-kind assistance, social, alcohol and drug rehabilitation and protective services for adults and children. Individuals who are eligible for shelter or shelter services, but who cannot be served in a program, shall receive referral services to a more appropriate program.
 - (c) Counseling for Family Violence Victims. This service may be provided on the telephone, or on an individual or group basis by the staff of the program or trained volunteers. This service must be provided to the victim. Children, dependents and significant family or support individuals may receive counseling on behalf of the victim. This service contrasts to therapy provided through a mental health service

which is not a core service for intervention with victims of family violence. Individuals who require therapy in addition to counseling as part of their plan of service must be referred to mental health services within the community.

1. The following types of counseling must be available:
 - (i) crisis intervention.
 - (ii) support counseling.
 - (iii) information sharing on domestic violence dynamics and other related issues.
 - (iv) individual planning to include assessment, goal and resource development, and evaluation.
 - (v) safety planning.
- (d) **Advocacy for Family Violence Victims.** Advocacy for family violence victims shall occur at two levels in order to assure impact on the needs of the victims, children and dependents: individual advocacy and systems advocacy.
 1. Individual advocacy should include the following types of activities:
 - (i) preparation in using other community resources.
 - (ii) identification of significant individuals to contact.
 - (iii) establishing linkage with community resources.
 - (iv) facilitating provision of services.
 - (v) providing accompaniment and support to the victim.
 2. Systems advocacy includes intervention with such organizations as medical, legal, judicial, educational, financial, social, mental health, transportation, law enforcement, religious, housing and employment.
 3. Advocacy activities within these organizations may include:
 - (i) establishing and maintaining linkage with community agencies and individuals.
 - (ii) training community agencies.
 - (iii) participating in appropriate professional organization and community services network.
- (e) **Transportation Arrangements.** This service may be provided by the most appropriate means for the area. Transportation arrangements may be provided by staff or volunteers in personal vehicles, commercial vehicles such as bus or cab, by local law enforcement officials, or by human service agency representatives. The client is encouraged to provide or arrange for transportation service when possible.

- (f) Follow-Up. Follow-up service is specifically designed for individuals who have been residents of a shelter, safe home or commercial lodging. Follow-up services may include any of the core services to assist in stabilizing the victim's circumstances. Continued involvement of the program, type of follow-up service, and length of time available shall be determined by the client whenever possible or appropriate. Programs, whose follow-up service formalized for research or data purposes, must respect the victim's safety and confidentiality. Recontact for any purpose may be conducted only with the victim's written prior approval.
- (g) Community Education. This service must be provided by staff or trained volunteers through public awareness campaigns, public speaking, training activities, and media messages with the following objectives in mind.
 - 1. informing the community of the services available.
 - 2. educating the community or specific groups on the issues of family violence.

Authority: T.C.A. §4-5-202; T.C.A. §71-6-203.

0620-3-6-.06 COUNSELING FOR PERPETRATORS

- (1) The primary focus of program services is to meet the needs of victims of family violence, their children or dependents. However, the law allows for the provision of services to the perpetrator. Programs may elect to provide services which target the perpetrator's needs only after all core services for the victims and their children and dependents are fully developed.
- (2) A shelter program may operate their own perpetrator's program or may contract with an independent program in the community. Program staff time may be used for the training of providers, referrals, court liaison work, and follow-up.
- (3) Shelter programs which provide direct services to perpetrators or have staff linkage to perpetrator programs must:
 - (a) Operate with a philosophical base which recognizes battering as a crime, and as a responsibility of the perpetrator; which acknowledges battering as a complex issue which involves power struggles wherein one individual or group uses violence to exert control or maintain control over another; which recognizes that battering has been condoned and perpetrated by systems of discrimination in our society.
 - (b) Maintain a separate advisory committee for the perpetrator program and the victim program.
 - (c) Allow court mandated or voluntary program designs. A court mandated design shall maintain clearly enforceable consequences for non-compliance by the perpetrator.
 - (d) Operate the perpetrator program in a separate location from that which serves the victim, their children and/or dependents.
 - (e) Maintain direct contact with the victim's shelter program to ensure the continue safety of the victim, child and dependents.
 - (f) Assure the right of confidentiality of and between the perpetrator and victim.

- (g) Assure that the provision of services to either the victim or the perpetrator is not conditional or contingent upon participation of either in the other's service plan.

Authority: T.C.A. §4-5-202; T.C.A. §71-6-203.

0620-3-6-.07 PROGRAM ADMINISTRATION

- (1) The program must have a written non-discrimination policy with regard to sex, race, religion, sexual preference, national origin, disability, age or marital status in administering the program and in determining eligibility for the provision of service.
- (2) Each program must have written rules, regulations and statement of rights which are given to shelter residents and made available to non-residents as appropriate as part of the intake process. These should include:
 - (a) an explanation of services available;
 - (b) house rules, as appropriate;
 - (c) confidentiality;
 - (d) reasons and process for termination from program;
 - (e) program length of stay, availability of extension, and the process for re-entry to program;
 - (f) policy and procedures for child abuse reporting; and adult abuse reporting;
 - (g) grievance procedures.
- (3) Termination of Shelter/Services to Individuals. Program policy regarding termination must require:
 - (a) notification to the individual in writing and verbally of decision, reasons for termination and right and process of appeal;
 - (b) notification, in writing, of services available from program to facilitate termination process;
 - (c) the knowledge and approval of the program director or designee for all terminations.
- (4) Grievance Procedures. Program policy regarding grievances shall require:
 - (a) procedures which clearly describe the lines of decision-making for appeals;
 - (b) appeals to be submitted in writing within 24 hours of the event;
 - (c) response to an appeal at each level to be within 24 hours and in writing;
 - (d) a copy of the grievance, supportive information and disposition of the appeal be maintained in the individual's file.

- (5) Confidentiality. Program policy regarding confidentiality must require:
- (a) The shelter program to have a written policy regarding the disclosure of information about any program participant. This policy will specify procedure regarding release of client information to include who may release information, what types of information may be released, to what resources the information may be released, and under what conditions information may be released.
 - (b) Prior written consent of the program participant to release any information is required except under four conditions:
 - 1. disclosure for medical emergency;
 - 2. disclosure to legal guardian of a program participant who has been legally declared incompetent;
 - 3. disclosure for reporting of child abuse or adult abuse; and
 - 4. disclosure required by subpoena or for monitoring and auditing purposes.
 - (c) No person can be compelled to provide testimony or documentary evidence in a criminal, civil or administrative proceedings which would identify the address or location of a shelter.
 - (d) In any proceeding involving the shelter or a person staying at a shelter, the sheriff shall serve any legal papers or process by contacting the shelter by telephone and making arrangements for service of the papers or process on the shelter or the person staying at the shelter.
 - (e) No records treated as confidential under T.C.A. 36-3-623 shall be disclosed except as permitted by that statute or other applicable law.
- (6) Evaluation
- (a) The shelter program must provide a mechanism for participant evaluation of services provided.
 - (b) The shelter program must provide for an annual evaluation of its established goals and objectives.

Authority: T.C.A. §4-5-202; T.C.A. 71-6-203(7), 71-6-208, and Public Acts of 1998, Chapter 1135, Section 41, Item 44.

0620-3-6-.08 SERVICE DELIVERY PROCESS

- (1) The goal of all service delivery is to provide for crisis intervention and continued safety for the victim, children and dependents and to empower the victim to meet self-determined goals. The service delivery process involve four areas: intake, assessment, case plans, and case records. Staff and supervised trained volunteers may provide services.
- (2) Intake. The shelter program must have written policy regarding intake procedures. The policy shall address:
 - (a) availability of intake 24 hours a day, seven days a week.

- (b) type and extent of information required to determine and document eligibility.
 - (c) procedure to assess immediate needs, including safety, and to determine appropriate services or referral, and
 - (d) clarification of access to program services.
- (3) Assessment. The shelter program must provide on-going assessment of each eligible participant and their situation. This assessment constitutes the basis upon which the service plan and safety plan are developed with each of the participants. The assessment is influenced by the following factors:
- (a) the circumstances of the victims such as their age, physical condition and emotional state, and their level of danger or risk.
 - (b) responsibilities for children or dependents and their needs.
 - (c) strength of and access to family relationships and support networks.
 - (d) educational and personal skills levels, and economic resources available to structure a level of service provision.
 - (e) progress in achieving goals established in service plan (relates to assessment prior to development of safety plan).
- (4) Case Plans
- (a) Three plans are available to structure service provisions for the eligible victim. Each of these plans is developed with the full participation and involvement of the victim. Each is outlined below.
 - (b) The first plan is termed a service plan. The plan will identify a goal, and outline the services and resources necessary to meet the goal and facilitate the safety of the individual. In addition, the plan will identify the staff responsible for coordination of service provisions and estimate the time frames for provision of the services.
 - (c) The second plan is the safety plan. This plan is developed with the full participation of staff or trained volunteers. The victim does not have to be a resident of a shelter facility to develop a safety plan. This plan is designed to give the victim options, and a plan of action, once the victim leaves the shelter or is thinking about leaving their abuser. Children should also complete a safety plan, when age appropriate.
 - (d) The third plan is the exit plan. This plan is developed, if possible, at the time the victim leaves the shelter. Such a plan may also be in order at the time the victim completed a shelter service. The exit plan will contain a brief synopsis or checkoff indicating progress on service provided. It will designate additional services needed and potential resources for those services. The safety plan is an integral part of the exit plan. During the development of the exit plan, the victim shall be notified of the availability of continued or additional services if re-entry is required. The victim must be provided an opportunity to evaluate the program of services.
- (5) Case Records

- (a) Case records are required on each participant. The case record must reflect the range of services provided to the victim, including services provided to children, dependents and perpetrator. Documentation of services provided must be brief and concise; documentation should be recorded in a professional manner. Documentation may vary from a single page form which documents a hot-line call to a full case narrative.
- (b) Each case record, residential and non-residential must contain, as appropriate:
 - 1. intake information.
 - 2. assessment.
 - 3. service plan.
 - 4. exit plan which includes follow-up.
 - 5. safety plan.
- (c) In addition, residential records shall include:
 - 1. health releases for participants.
 - 2. release of information forms.
 - 3. a copy of the rules, rights and responsibility sheet of the shelter which reflects the signature of the resident(s).

Authority: T.C.A. §4-5-202; T.C. A. 71-6-201, 71-6-203 and Public Acts of 1998, Chapter 1135, Section 41, Item 44.

0620-3-6-.09 AGENCY REQUIREMENTS

- (1) Administration
 - (a) The program administration must assure, to the extent feasible, that any funds allocated for family violence shelter or shelter services will be used to provide services in addition to those already provided by the Department of Finance and Administration.
 - (b) The program administration must be incorporated as a not-for-profit corporation, and be tax-exempt under section 501 of the Internal Revenue Code.
 - (c) The program administration shall comply with T.C.A. §§37-1-403, 37-1-605 and 71-6-103 by reporting cases of suspected abuse of children to the Department of Children's Services and suspected cases of abuse of adults to the Department of Human Services.
 - (d) The program administration must submit an annual report of each service funded to include as a minimum the following: statistics on the number and type of persons requesting services; the number of persons served; the type of service rendered and a general description of the social and economic characteristics of the person served; the number and type of referrals, including medical, legal and education

services, made to other community resources; and any other information as may be required by the Department. No information contained in the report shall identify any person served or enable any person to determine the identity of such a person.

- (e) The program administration shall be in compliance with the Title VI and VII of the Civil Rights Act of 1964, as amended, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and the Pro-Children's Act of 1994 (Public Law 103-227, Part C. Environmental Tobacco Smoke).

(2) Governing Boards

- (a) All agencies must have a governing board which meets regularly with staff.
- (b) All shelter programs which are incorporated in umbrella agencies must have a separate advisory body in addition to the governing board.
- (c) A designated member of the advisory body must serve on the governing boards.
- (d) Membership on the governing board or the advisory body, in the case of a shelter program incorporated into an umbrella agency, must consist of individuals who reside in the community served by the shelter program, who have an understanding of the problem of family violence, who have an interest in the prevention of family violence and who have an interest in the development and provision of services to victims of family violence.
- (e) Membership of the governing or advisory body should be broad based, must reflect the racial and ethnic composition of the community served and should include representative victims of family violence.
- (f) Women should hold a significant proportion of key decision-making positions on the governing board or advisory body.
- (g) Board members must not be related by blood or marriage to other board members or staff, and must use good judgement to avoid even the appearance of a conflict of interest.

(3) Personnel Requirements

- (a) The governing body must adopt and have implemented written program personnel policies which are reviewed annually. These policies, which pertain to paid personnel only, must address:
 1. non-discrimination in regard to sex, race, religion, sexual preference, national origin, disability, age or marital status;
 2. recruitment, selection, promotion, and termination;
 3. benefits;
 4. vacation, sick leave and annual leave accrual, compensatory time;
 5. rules of conduct;
 6. disciplinary actions;

7. grievances;
 8. supervision; and
 9. written work performance evaluation.
- (b) Written job descriptions for all program positions must be available. These written descriptions shall include but not be limited to:
1. job title;
 2. tasks and responsibilities of the job;
 3. required skills, knowledge and experience;
 4. salary range; and
 5. lines of authority.

(4) Staff Requirements

- (a) All staff employed with a shelter should possess an understanding of the issues of family violence.
- (b) Qualifications
1. program director: minimum requirements include a high school diploma or GED certification and additional life, work or educational experiences which apply to the duties and responsibilities outlined in the job description.
 2. support staff: minimum requirements include life, work or educational experiences which apply to the duties and responsibilities outlined in the job description. Such support staff positions could include coordinators, direct service case workers, house managers secretarial, maintenance, bookkeepers, and other such professional service workers.
- (c) Wage and Hour Requirements. The shelter program positions must be compensated in compliance with applicable federal and state laws which include the Fair Labor Standards Act.
- (d) Orientation. The shelter program must provide for a staff orientation, to include:
1. insuring overall familiarization with the agency and program purpose, objectives, structure and policy; and
 2. specific exposure to and training in the duties of the position.
- (e) Staff Development. The shelter program must provide a written plan for staff development and training, to include:
1. initial training for new staff;

2. on-going training for personnel;
 3. policy for leaves for conferences, classes or institutes; and
 4. regular staff meetings for discussion of program, problems, policies and method of practice.
- (a) Volunteers. A shelter program must have written policy and a plan on the use of all volunteers (direct service, maintenance, and transportation) to include:
1. an application filed and individual screening;
 2. a full description of duties and rights, including confidentiality policy and practices;
 3. provision for supervision;
 4. provision of role appropriate orientation, initial training and on-going training;
 5. guidelines and policy for termination; and
 6. policies and procedures for contracting of volunteer services.

This policy shall assure non-discrimination in regard to sex, race, religion, sexual preference, national origin, disability, age or marital status in the recruitment, and selection of volunteers and in placement of assignment. Where possible, volunteers should be selected to reflect the racial and ethnic composition of the community served by the shelter program.

Authority: *T.C.A. §4-5-202; T.C.A. §71-6-201, 71-6-203(7), 71-6-204 and Public Acts of 1998, Chapter 1135, Section 41, Item 44.*

The proposed rules set out herein were properly filed in the Department of State on the 7th day of August, 2001, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-04)

**DEPARTMENT OF HEALTH - 1200
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 1200-10-1
GENERAL RULES AND REGULATIONS**

Presented herein are proposed amendments of the Department of Health, Division of Health Related Boards submitted pursuant to Tennessee Code Annotated, Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Health, Division of Health Related Boards, to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in the office of the Division of Health Related Boards on the First Floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee 37247-1010 and in the Administrative Procedures Division of the Department of State, Eighth Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: 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 text of the proposed amendments is as follows:

AMENDMENTS

Rule 1200-10-1-.10, Licensee Renewal Applications, is amended by deleting the introductory sentences and paragraph (2) in their entirety and substituting instead the following language, so that as amended, the new introductory sentences and the new paragraph (2) shall read:

1200-10-1-.10 LICENSEE RENEWAL APPLICATIONS. The Division, with the Commissioner of Health's approval, establishes a system of license renewal at alternative intervals which will allow for the distribution of the license workload as uniformly as is practicable throughout the calendar year. Notwithstanding any law to the contrary, licenses issued under the alternative method are valid for twenty-four (24) months, and expire on the last day of the last month of the license period. All authorizations to practice must be renewed pursuant to the Division's alternative renewal system.

- (2) No renewal application will be accepted after the last day of the month following the licensee's expiration date under the alternative method authorized in this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-1-108, 63-1-119, and 63-1-132.

The proposed rules set out herein were properly filed in the Department of State on the 23rd day of August, 2001, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-19)

**DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT - 0800
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

**CHAPTER 0800-1-3
OCCUPATIONAL SAFETY AND HEALTH
RECORD-KEEPING AND REPORTING**

Presented herein are proposed rules, amendments and repeals of the Department of Labor and Workforce Development, Division of Occupational Safety and Health submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Labor and Workforce Development to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules, amendments and repeals are published. Such petition to be effective must be filed in the Legal Services Office of the Department of Labor and Workforce Development, 26th Floor, William R. Snodgrass Building, 312 8th Avenue North, Nashville, TN 37243-0293, and in the Administrative Procedures Division of the Department of State, 8th Floor, William R. Snodgrass Building, 312 8th Avenue North, Nashville, TN 37243-0310, and must be signed by twenty-five (25) persons who will be affected by the rules, or submitted by a municipality which will be affected by the rules, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the proposed rules, contact: Michael M. Maenza, Manager of Standards and Procedures, Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health, 3rd Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243-0659, (615) 741-7036.

The text of the proposed rules and amendments is as follows:

NEW RULES

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| | | | |
|--------------|--|--------------|--|
| 0800-1-3-.01 | Purpose | 0800-1-3-.05 | Reporting Fatality, Injury and Illness Information |
| 0800-1-3-.02 | Scope | 0800-1-3-.06 | Transition From the Former Rule |
| 0800-1-3-.03 | Recordkeeping Forms and Recording Criteria | 0800-1-3-.07 | Definitions |
| 0800-1-3-.04 | Other TOSHA Injury and Illness Recordkeeping Requirements | | |

SUMMARY OF PROPOSED RULES

CHAPTERS 0800-1-3 AND 0800-1-5

The Commissioner of Labor and Workforce Development is proposing 34 pages of rules that adopt new federal occupational safety and health injury and illness reporting and recording requirements for both private and public sector employers. The new rules found in Chapters 0800-1-3 and 0800-1-5 adopt the action of the Occupational Safety and Health Administration (OSHA) published in the Federal Register Volume 66, Number 13 dated January 19, 2001, wherein OSHA adopted new Occupational Injury and Illness Recording and Reporting Requirements found in 29 CFR 1904 and 29 CFR 1952. There is a provision found in 29 CFR 1952.4 that requires State-Plan States such as Tennessee to adopt substantially identical requirements to the Federal requirements. The new rules are written in plain language. A summary of the proposed rules is as follows:

This change updates three recordkeeping forms:

OSHA Form 300 (Log of Work-Related Injuries and Illnesses); simplified and printed on smaller legal sized paper.

OSHA Form 301 (Injury and Illness Incident Report); includes more data about how the injury or illness occurred.

OSHA Form 300A (Summary of Work-Related Injuries and Illnesses); a separate form updated to make it easier to calculate incidence rates.

Eliminates different criteria for recording work-related injuries and work-related illnesses; one set of criteria will be used for both. (The former rule required employers to record all illnesses, regardless of severity).

Requires records to include any work-related injury or illness resulting in one of the following: death; days away from work; restricted work or transfer to another job; medical treatment beyond first aid; loss of consciousness; or diagnosis of a significant injury/illness by a physician or other licensed health care professional.

Includes new definitions of medical treatment, first aid, and restricted work to simplify recording decisions.

Requires a significant degree of aggravation before a preexisting injury or illness becomes recordable.

Adds additional exemptions to the definition of work-relationship to limit recording of cases involving the eating and drinking of food and beverages, common colds and flu, blood donations, exercise programs, mental illnesses, etc.

Clarifies the recording of "light duty" or restricted work cases. Requires employers to record cases when the injured or ill employee is restricted from their "normal duties" which are defined as work activities the employee regularly performs at least once weekly.

Requires employers to record all needlestick and sharps injuries involving contamination by another person's blood or other bodily fluids.

Requires employers to record standard threshold shifts (STS) in employees' hearing. (An STS is an adverse change in an employee's hearing threshold, relative to his/her most recent audiogram). Provides a separate column on the OSHA Form 300 to capture statistics on hearing loss.

Applies the same recording criteria to musculoskeletal disorders (MSDs) as to all other injuries or illnesses. Employer retains flexibility to determine whether an event or exposure in the work environment caused or contributed to the MSD. Forms include columns dedicated to MSD cases.

Includes separate provisions describing the recording criteria for cases involving the work-related transmission of tuberculosis or medical removal under OSHA standards.

Eliminates the term "lost workdays" and focuses on days away or days restricted or transferred. Also includes new rules for counting that rely on calendar days instead of workdays.

Requires employers to establish a procedure for employees to report injuries and illnesses and tell their employees how to report. Employers are prohibited from discriminating against employees who do report. For the first time, employee representatives will have access to those parts of the OSHA 301 form relevant to the employees they represent.

Protects employee privacy by (1) prohibiting employers from entering an individual's name on Form 300 for certain types of injuries/illnesses (e.g., sexual assaults, HIV infections, mental illnesses, etc.); (2) providing employers the right not to describe the nature of sensitive injuries where the employee's identity would be known; and (3) giving employee representatives access only to the portion of Form 301 which contains no personal identifiers.

Requires the annual summary to be posted for three months instead of one. Requires certification of the summary by a company executive.

Changes the reporting of fatalities and catastrophes to exclude some motor carrier and motor vehicle accidents.

For a copy of the proposed rules, contact: Michael M. Maenza, Manager of Standards and Procedures, Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health, 3rdFloor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243-0659, (615) 741-7036.

The proposed rules set out herein were properly filed in the Department of State on the 30th day of August, 2001, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-42)

**DEPARTMENT OF SAFETY - 1340
DIVISION OF DRIVER LICENSE ISSUANCE**

**CHAPTER 1340-1-13
CLASSIFIED AND COMMERCIAL DRIVER LICENSES**

Presented herein are proposed amendments of the Department of Safety submitted pursuant to Tennessee Code Annotated, Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Safety to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Department of Safety Legal Division, 1150 Foster Ave. Nashville, Tennessee 37249-1000, and in the Department of State, Publication Division, 312 Eighth Avenue North, 8th Floor, William R. Snodgrass Tower, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of these proposed amendments, contact: Pat Wall, Staff Attorney, Tennessee Department of Safety Legal Division, 1150 Foster Avenue, Nashville, TN 37249, 615-251-5296.

The text of the proposed amendments is as follows:

AMENDMENTS

Rule 1340-1-13-.12 Proof of Date of Birth and Identification is amended to read as follows:

1340-1-13-.12 PROOF OF DATE OF BIRTH AND IDENTIFICATION.

- (6) An applicant seeking to obtain a driver license upon initial issuance shall provide acceptable proof of residency which shall consist of providing two (2) documents including, but not limited to, the following, which must include the applicant's name or the name of the applicant's spouse, if the applicant has a spouse, or if the applicant is a minor, the name of a parent or legal guardian:
- (a) Utility bill, including telephone service, showing a valid Tennessee residence address;
 - (b) Bank Statement showing a valid Tennessee residence address;
 - (c) Rental contract or receipt showing a valid Tennessee residence address;
 - (d) Employer verification acceptable by the Department;
 - (e) Automobile, Life, or Health Insurance Policies showing a valid Tennessee residence address;
 - (f) Driver License issued by State of Tennessee to a parent, legal guardian or spouse;
 - (g) Tennessee motor vehicle registration showing a valid Tennessee residence address;
 - (h) Internal Revenue Service Tax Reporting W-2 form;
 - (i) Receipt for personal or real estate taxes paid within the last year showing a valid Tennessee residence address;
 - (j) In the case of a student enrolled in a public or private education institution in this state, the student may provide a photo student I.D. and documentation acceptable to the Department that the student resides on campus.
- (7) Should an applicant be unable to provide two (2) of the documents described in paragraph 6, the applicant may provide acceptable proof of residency by providing one (1) of the documents listed in paragraph 6 and one (1) of the following:
- (a) The Individual Taxpayer Identification Number (ITIN) issued by the Internal Revenue Service resulting from the submission of a Form W-7 to the Internal Revenue Service.
 - (b) Form I-94 issued to the applicant by the Immigration and Naturalization Service;
 - (c) Employment authorization document (E.A.D.) issued to the applicant by the Immigration and Naturalization Service,
 - (d) I-551 issued to the applicant by the Immigration and Naturalization Service.

Authority: T.C.A. §55-50-202.

AMENDMENTS

Rule 1340-1-13-.12 Proof of Date of Birth and Identification is amended by adding the following language, “, Residency,” after the word “Birth” in the Rule Title so that as amended, the Rule Title shall read:

Rule 1340-1-13-.12 Proof of Date of Birth, Residency and Identification

Authority: T.C.A. §55-50-202.

Paragraph (1) of Rule 1340-1-13-.12 is amended by adding the following language, “, residency,” after the word “birth” so that as amended the paragraph shall read:

- (1) The Driver License Examiner will require positive proof of date of birth, residency, and identification of any person applying for any class of driver license or photo identification license.

Authority: T.C.A. §55-50-202.

The proposed rules set out herein were properly filed in the Department of State on the 27th day of August, 2001, and pursuant to the instructions set out above, and in the absence of the filing of a petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-38)

**TREASURY DEPARTMENT - 1700
RETIREMENT DIVISION****CHAPTER 1700-3-1
TENNESSEE CONSOLIDATED RETIREMENT SYSTEM**

Presented herein are proposed rules and amendments of the Board of Trustees of the Tennessee Consolidated Retirement System submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Board to promulgate these rules and amendments without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules and amendments are published. Such petition to be effective must be filed in the Treasury Department, Division of Retirement, Tenth Floor, Andrew Jackson State Office Building located at Fifth and Deaderick, Nashville, Tennessee 37243, and in the Administrative Procedures Division of the Department of State, Eighth Floor, William R. Snodgrass Tower, Eighth Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the rules and amendments, or submitted by a municipality which will be affected by the rules and amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed rules and amendments, contact: Mary Krause, General Counsel, Tennessee Treasury Department; 10th Floor, Andrew Jackson State Office Building; Nashville, Tennessee 37243-0230; (615) 741-7063.

The text of the proposed rules and amendments is as follows:

NEW RULES

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1700-3-1-.30 Direct Deposit of Benefits.

1700-3-1-.30 DIRECT DEPOSIT OF BENEFITS.

- (1) Except as provided in Paragraphs (2) and (4) of this rule below, all monthly benefits payable under the provisions of T.C.A., Title 8, Chapters 34 – 37 shall be paid to recipients by electronic funds transfer. Each recipient of such payments shall complete an electronic funds transfer form as prescribed by the Retirement System whereon the recipient shall:
 - (a) designate one financial institution to which such payments shall be made; and
 - (b) provide to the Retirement Division the payment information necessary for the recipient to receive electronic funds transfer payments through the institution so designated.
- (2) The Retirement Division shall waive the application of Paragraph (1) of this rule if the recipient objects to receiving the benefits by electronic funds transfer and agrees to pay the Retirement Division a reasonable fee to cover the Division's cost of processing and issuing a check. The written certification must also contain an acknowledgement by the recipient that the Division will subtract the amount of the fee from the funds due the recipient. The Retirement Division shall set the amount of the fee and may revise the same from time to time to reflect increases in postage, mailing and handling. The fee set by the Retirement Division shall not be less than fifty cents nor more than three times the first class mail postage rate.
- (3) Should a recipient fail or refuse to return to the Retirement Division a properly completed electronic funds transfer form described in Paragraph (1) or fail to provide a written certification as prescribed in Paragraph (2), then the Retirement Division may apply the fee deduction pursuant to Paragraph (2) above.
- (4) The requirements of Paragraph (1) of this rule shall not apply during any time period during which the benefits are required to be paid to: (i) the Internal Revenue Service on account of a tax levy, (ii) a court official under an Order of Assignment for Child Support, (iii) a Chapter Thirteen Trustee on account of a bankruptcy order, or (iv) under any other order for which the benefits can be legally assigned, attached or garnished.
- (5) For purposes of this rule, the term "electronic funds transfer" means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term also includes, but is not limited to, Automated Clearing House transfers and Fed Wire transfers.

- (6) The application of this rule may be phased in by the Retirement Division as administratively practical.

Authority: T.C.A. §§ 8-34-313 and 8-36-117(b).

AMENDMENTS

1700-3-1-.29 Purchase of Prior Service through Monthly Installments is amended by deleting the same in its entirety and by substituting instead the following:

1700-3-1-.29 PURCHASE OF PRIOR SERVICE THROUGH MONTHLY INSTALLMENTS. A member or retired member of the Tennessee Consolidated Retirement System may establish retirement credit through monthly installments pursuant to T.C.A. § 8-37-220. The Retirement Division may begin accepting monthly installment payments pursuant to said Section effective January 1, 1997. The minimum amount of the monthly payments shall be determined by the Retirement Division, provided such amount is not less than fifty dollars and no cents (\$50.00) per month.

Authority: T.C.A. §§ 8-34-313, 8-37-214 and 8-37-220.

The proposed rules and amendments set out herein were properly filed in the Department of State on the 31st day of August, 2001, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2001. (08-56)

Blank

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

- 0780 - Department of Commerce and Insurance - Public Necessity Rules regarding the privacy of nonpublic personal information, chapter 0780-1-72 Privacy of Consumer Information Regulations, 6 T.A.R. (June 2001) - Filed May 14, 2001; effective through November 19, 2001. (05-21)
- 1240 - Department of Human Services - Public Necessity Rules regarding standards of need for recipients of temporary assistance in the Families First program, chapter 1240-1-50 Standard of Need/Income, 8 T.A.R. (August 2001) - Filed July 3, 2001; effective through December 16, 2001. (07-01)
- 1240 - Department of Human Services - Public Necessity Rules relating to care standards relative to new age ranges for certain age groups of children being cared for in child care centers licensed by the Department of Human Services, chapter 1240-4-3 Licensure Rules for Child Care Centers Serving Pre-School children, 8 T.A.R. (August 2001) - Filed July 19, 2001; effective through December 31, 2001. (07-15)
- 1240 - Department of Human Services - Public Necessity Rules regarding standards relative to new age ranges for certain age groups of children being cared for in child care centers licensed by the Department of Human Services, chapter 1240-4-3 Licensure Rules for Child Care Centers Serving School-age children, 8 T.A.R. (August 2001) - Filed July 19, 2001; effective through December 31, 2001. (07-14)

DEPARTMENT OF HUMAN SERVICES - 1240 ADULT AND FAMILY SERVICES DIVISION

CHAPTER 1240-4-7 REPORT CARDS AND RATED LICENSING FOR CHILD CARE AGENCIES

STATEMENT OF NECESSITY REQUIRING PUBLIC NECESSITY RULES

Public Chapter 453 (2001), Section (6), directs the Department of Human Services, in consultation with the Tennessee Commission on Children and Youth, to implement by August 1, 2001 a mandatory report card and a voluntary rated licensing system for the purpose of evaluating, individually and collectively, all child care agencies licensed or approved by the Department for the purpose of giving parents or other caretakers of children the opportunity to make informed choices regarding the care of their children by comparing the quality of services offered by child care agencies, and for the purpose of encouraging the improvement of out-of-home care child care for Tennessee children.

Since Public Chapter 453 did not become effective until July 19, 2001, and since the implementation of the report card and rated licensing system is effective August 1, 2001 pursuant to direction of the General Assembly, the Department is unable to utilize regular rulemaking processes for the enactment of rules for the program's implementation.

For a complete copy of these public necessity rules, contact William B. Russell, General Counsel, Tennessee Department of Human Services, 15th Floor, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006, (615) 313-4731.

Natasha K. Metcalf
Commissioner
Tennessee Department of Human Services

**SUMMARY OF
PUBLIC NECESSITY RULES
OF
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADULT AND FAMILY SERVICES DIVISION

CHAPTER 1240-4-7
REPORT CARDS AND RATED LICENSING FOR CHILD CARE AGENCIES**

1240-4-7-.01 PURPOSE AND SCOPE.

This Section establishes the purpose and scope of the rules that establish a system for evaluating, individually and collectively, all child care agencies licensed or approved by the Department of Human Services. The purpose of this system is to allow parents and caretakers of children to have a way to compare the relative quality of child care services offered by licensed or approved child care agencies when choosing a child care service and to encourage the improvement of child care services by completing report cards for those parents and caretakers to review and by awarding, for those agencies that wish to voluntarily participate in a rating system, a grade and higher subsidy payments to providers for children whose care is funded by the State of Tennessee.

The system consists of a mandatory annual report card on each agency, and a voluntary rating system which will assign scores based upon the report card evaluation and which will then grant a grade level, or “star”, as part of the voluntary rating system. The summary of the report card and rated licensing score will be posted with each child care agency’s license. The posting of the score on the report cards will not occur until October 1, 2002.

This Section sets forth the “key indicators” of child care quality as established by State law at T.C.A. 71-3-502(j), and which will be the basis upon which the report card and the rating will be based. These are:

- (a) Health and safety;
- (b) Training, education, certification, and credentials of all supervisory staff, including the director or licensee;
- (c) Staffing ratios;
- (d) Child development and enrichment;
- (e) Accreditation status; and
- (f) Adequacy of physical facilities.

1240-4-7-.02 DEFINITIONS.

This Section establishes numerous definitions related to the program.

1240-4-7-.03 REPORT CARD.

This Section establishes the process for developing the mandatory annual report cards for each child care agency that will be required for each child care agency seeking a renewal of its license or its approved status. The report card will not be completed for new child care agencies until they seek renewal of their licenses.

The Section sets out the “component area” concept that is used to evaluate a child care agency for the purpose of completing the report card. These component areas are based upon the key indicators described in Section .01 and are comprised of:

(a) Component Areas for Family Child Care Homes and Group Child Care Homes:

1. Professional Development;
2. Compliance History;
3. Parent/Family Involvement;
4. Business Management; and
5. Program Assessment.

(b) Component Areas for Child Care Centers:

1. Director Qualifications;
2. Professional Development;
3. Compliance History;
4. Parent/Family Involvement;
5. Ratio and Group Size;
6. Staff Compensation; and
7. Program Assessment.

Within each component area are several “criteria” that are described in this Section that denote the basis for completing the report card for each level of child care that is to be given a rating, if the agency voluntarily seeks a rating, or score.

The four (4) categories for the rated license will be:

- (a) “Complies with Licensing Regulations”. This designation denotes that the child care agency meets licensing regulations necessary for a license, but is not at a higher level. No further score will be given for an agency that meets this requirement.
- (b) Level One which denotes the entry level for the “Star Quality System” described in Rule 1240-4-7.04.
- (c) Level Two which denotes the second level of the “Star Quality System” and which requires a higher level of advancement in the component areas and the criteria that make up each component area described in Rule 1240-4-3-.03.
- (d) Level Three which denotes the third, and highest level of the “Star Quality System” and which requires the highest level of advancement in the component areas and the criteria described in 1240-4-3-.07.

In child care centers (13 or more children), the criteria for a one, two or three level rating include increasing requirements at each level for education, training and experience for the Director or licensee and the staff; a better history of compliance with child care regulations than the preceding level; more parent/family communication and involvement in the child care agencies; better adult to child supervision ratios; higher rating scales on the program assessment instrument used to determine child care quality and better staff compensation including the establishment of employee pay scales and the offering of better benefits for staff at each level.

In family child care home (5-7 children) and group child care homes (8-12), there are similar requirements at each level, but Director qualifications, Staff Compensation and adult:child ratios are not part of the report card/rating process for these classes of child care agencies.

1240-4-7-.04 STAR-QUALITY CHILD CARE PROGRAM.

This Section establishes the “Star-Quality Child Care Program for those child care agencies that voluntarily apply for this program. In this program, if the agency attains an overall rating at the one, two or three level under the report card process, they may apply for a “Star” designation (One Star, Two Star, and Three Star). For private agencies that take no children who receive State child care subsidies, they can display this rating to demonstrate official recognition of the level of quality they have attained. For those agencies that do care for any State subsidized children, they will receive a premium on the normal reimbursement for child care for the State subsidized child. There will be a 5% premium for a One Star rating, 15% for a Two Star rating and 20% for a Three Star rating. The rating would have to be re-evaluated each year.

Those agencies that receive a two or three Star rating are also eligible for a biennial license or a triennial license at a reduced licensing fee.

This Section also the application process for the program and establishes the methodology for assigning a rating for each component area as well as an overall rating of the agency based upon a numerical score.

1240-4-7-.05 RE-EVALUATIONS AND REVIEWS OF REPORT CARDS AND AGENCY RATINGS.

This Section establishes how a child care agency may obtain a re-evaluation of its report card or star rating and what the review process involves. An initial review will be done by Department staff not associated with the Department’s District that completed the report card and rating. A second review may be obtained by an Administrative Review under the Administrative Procedures Act through a hearing before an independent Department hearing officer.

The public necessity rules set out herein were properly filed in the Department of State on the 4th day of August, 2001, and will be effective from the date of filing for a period of 165 days. These public necessity rules will remain in effect through the 13th day of January, 2001. (08-02)

REAL ESTATE APPRAISER COMMISSION - 1260**CHAPTER 1255-6
RECIPROcity****STATEMENT OF NECESSITY REQUIRING
PUBLIC NECESSITY RULES**

Submitted herewith are proposed amendments to Chapter 1255-6 of the rules of the Tennessee Real Estate Appraiser Commission for promulgation under the public necessity provision of the Uniform Administrative Procedures Act. The Commission has adopted these rules pursuant to Tenn. Code Ann. § 4-5-209 (a) (3). Tenn. Code Ann. § 4-5-209 (a) (3) authorizes an agency to adopt public necessity rules when “. . . it is required by an agency of the federal government and adoption of the rule through ordinary rulemaking procedures described in this chapter might jeopardize the loss of a federal program or funds.”

These rules are being promulgated to ensure the Real Estate Appraiser Commission’s compliance with the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“FIRREA”), and the policies adopted thereunder, in the issuance of temporary practice permits to nonresident real estate appraisers, as mandated by Tenn. Code Ann. § 62-39-338, as amended by Chapter No. 81 of the Public Acts of 2001. Chapter No. 81 of the Public Acts of 2001 gave the Real Estate Appraiser Commission the authority to adopt public necessity rules determined to be necessary to ensure compliance with FIRREA in the issuance of temporary practice permits. The Real Estate Appraiser Commission voted to adopt these rules at its May 21, 2001 meeting.

Pursuant to federal law, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, appointed by Congress, may adopt policies governing real estate appraiser licensing and may monitor states’ real estate appraiser licensing programs. In its recent review of the Tennessee Real Estate Appraiser Commission, the federal Appraisal Subcommittee determined that Tennessee’s law governing temporary practice for nonresident real estate appraisers was burdensome in that it imposed an expiration date on a temporary permit to perform appraisals for a multiple property assignment. The Subcommittee found that the law was not in compliance with FIRREA or its policies.

Prior to the enactment of Chapter No. 81 of the Public Acts of 2001, the Tennessee Real Estate Appraiser Commission lacked the legal authority to promulgate rules addressing temporary practice permits that would be consistent with FIRREA and the policies adopted by the Appraisal Subcommittee. An amendment to the law was deemed necessary to give the Real Estate Appraiser Commission the rulemaking authority to promulgate rules that are consistent with the federal requirements and would not be considered burdensome. If the Real Estate Appraiser Commission does not adopt the proposed rules, the federal Appraisal Subcommittee may find Tennessee’s appraisal policies, practices or procedures inconsistent with FIRREA and may initiate proceedings that could result in the nonrecognition of Tennessee’s appraiser certifications or licenses. 12 U.S.C. 3347 Sec. 1118.

Thus, if the federal Appraiser Subcommittee determines Tennessee is in violation of FIRREA, nonrecognition proceedings will commence that may result in the federal Appraisal Committee, all agencies, instrumentalities and Federally recognized entities acknowledged under FIRREA to not recognize the licenses of Tennessee real estate appraiser licenses in transactions involving the lending of federal funds (especially in connection with residential mortgage lending). 12 U.S.C. 3347 Sec. 1118 and 12 U.S.C. 3349 Sec. 1120. Other penalties for failure to comply with FIRREA include damage to the real estate market in Tennessee as a result of nonrecognition proceedings and the inability of consumers utilizing the services of Tennessee licensed real estate appraiser to obtain loans from federal institutions for which real estate would serve as collateral. 12 U.S.C. 3347 Sec. 1118 and 12 U.S.C. 3349 Sec. 1120.

Due to the length of time necessary to complete the rulemaking process under the Uniform Administrative Procedures Act, public necessity rules should be adopted in order to assure the Real Estate Appraiser Commission’s compliance with FIRREA until permanent rules are implemented. The Real Estate Appraiser Commission is also filing a Notice of Rulemaking Hearing to adopt these as permanent rules.

For a copy of this public necessity rule contact: Sandy Moore, Administrative Director Tennessee Real Estate Appraiser Commission, 6th Floor, Davy Crockett Tower, 500 James Robertson Parkway Nashville, TN 37243 (615) 741-1831.

**PUBLIC NECESSITY RULES
DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
REAL ESTATE APPRAISER COMMISSION**

**CHAPTER 1255-6
RECIPROCITY**

AMENDMENTS

Rule 1255-6-.02 Temporary Practice Permits is amended by deleting the text of the rule in its entirety and substituting instead the following language, so that the rule as amended shall read:

- (1) For purposes of this rule only, "assignment" shall mean one or more real estate appraisals and written appraisal reports which are covered by a contract to provide real estate appraisal services.
- (2) A nonresident of this state who shows proof of such nonresident's proper licensure or certification in another state, territory or possession of the United States, or any country, may apply to the Commission for a temporary practice permit to perform a single assignment.
- (3) An applicant for a temporary practice permit must submit an application to the Commission on a form approved by the Commission.
- (4) An applicant for a temporary practice permit shall submit with the application a nonrefundable fee of one hundred fifty dollars (\$150.00) for each assignment in this state. The applicant shall provide with the application a list of each specific parcel of real property included in the assignment. Such permit shall expire six (6) months after its issuance.
- (5) Upon appropriate written request, the Commission may grant an extension of any temporary practice permit it has issued. In no event may a temporary practice permit be valid for more than one (1) year from the date of its issuance.
- (6) An individual nonresident may obtain no more than six (6) temporary practice permits in a single calendar year.

Authority: *T.C.A. §§62-39-203, 62-39-322, 62-39-333 and 62-39-338, Chapter 81, Public Acts of 2001.*

The public necessity rules set out herein were properly filed in the Department of State on the 30th day of August, 2001, and will be effective from the date of filing for a period of 165 days. These public necessity rules will remain in effect through the 11th day of February, 2001. (08-48)

RULEMAKING HEARINGS

BOARD OF CHIROPRACTIC EXAMINERS - 0260

There will be a hearing before the Tennessee Board of Chiropractic Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, and 63-4-106, 63-4-119, and 63-4-123. 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 Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 29th day of October, 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 (3) in its entirety and renumbering the remaining paragraphs accordingly.

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

Rule 0260-2-.09, Renewal of License, is amended by deleting subparagraphs (1) (b), (1) (d), and paragraph (2) in their entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (3) and (4), so that as amended, the new subparagraphs (1) (b), (1) (d), and the new paragraphs (2), (3), and (4) shall read:

(1) (b) Methods of Renewal

1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org

2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

- (1) (d) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of an Expired License - Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:
 - (a) Payment of all past due renewal fees and state regulatory fees; and
 - (b) Payment of the late renewal fee, pursuant to Rule 0260-2-.06; and
 - (c) Submission of evidence of completion of continuing education requirements pursuant to rule 0260-2-.12.
- (3) Licensure renewal and reinstatement applications shall be treated as licensure applications and review decisions shall be governed by this rule and rule 0260-2-.07.
- (4) Anyone submitting a signed renewal form or letter which is found to be untrue may be subjected to disciplinary action as provided in rule 0260-2-.15.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-106, and 63-4-112.

Rule 0260-2-.12, Continuing Education, is amended by deleting paragraph (5) but not all its subparagraphs, and substituting instead the following language, and is further amended by deleting subparagraph (5) (b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (5) (c) and (5) (d), and is further amended by deleting paragraph (6) in its entirety and substituting instead the following language, so that as amended, the new paragraph (5) but not all its subparagraphs, the new subparagraphs (5) (b), (5) (c), and (5) (d), and the new paragraph (6) shall read:

- (5) Continuing Education for Reactivation of Retired, Revoked, or Expired Licensure.
 - (5) (b) Reactivation of Revoked Licensure – No person whose license has been revoked for failure to comply with continuing education may be reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as that for those licenses which are active. The required clock hours of continuing education must have been begun and successfully completed before the date of reactivation.
 - (5) (c) Reactivation of Expired Licensure – No person whose license which has expired may be reactivated without submitting evidence of continuing education. The continuing education hours documented at the time of reactivation must equal the hours required, had the license remained in an active status, and must have been begun and successfully completed before the date of reactivation.
 - (5) (d) Continuing education hours obtained as a prerequisite for reactivating a license may not be counted toward the calendar year requirement.
- (6) Violations
 - (a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.

- (b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
- (c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.
- (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (6) (b) above may be subject to disciplinary action.
- (e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-106, 63-4-112, 63-4-114, and 63-4-115.

Rule 0260-2-.12, Continuing Education, is amended by deleting paragraph (4) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-106, 63-4-112, 63-4-114, and 63-4-115.

Rule 0260-3-.01, Definitions, is amended by deleting paragraph (3) in its entirety and renumbering the remaining paragraphs accordingly.

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

Rule 0260-3-.09, Renewal of Certification, is amended by deleting subparagraphs (1) (b), (1) (d), and paragraph (2) in their entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (3) and (4), so that as amended, the new subparagraphs (1) (b), (1) (d), and the new paragraphs (2), (3), and (4) shall read:

- (1) (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - For individuals who have not renewed their certification online via the Internet, a renewal application form will be mailed to each individual certified by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the certificate holder from the responsibility of meeting all requirements for renewal.
- (1) (d) Certificate holders who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their certificates processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of an Expired Certificate – Reinstatement of a certificate that has expired may be accomplished upon meeting the following conditions:

- (a) Payment of all past due renewal fees and state regulatory fees; and
 - (b) Payment of the late renewal fee, pursuant to Rule 0260-3-.06; and
 - (c) Submission of evidence of completion of continuing education requirements pursuant to rule 0260-3-.12.
- (3) Renewal issuance decisions pursuant to this rule may be made administratively, upon review by the board or the board's designee.
 - (4) Anyone submitting a signed renewal form or letter which is found to be untrue may be subjected to disciplinary action as provided in rule 0260-3-.14.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-106, and 63-4-119.

Rule 0260-3-.12, Continuing Education, is amended by deleting paragraph (6) but not all its subparagraphs, and substituting instead the following language, and is further amended by deleting subparagraph (6) (b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (6) (c) and (6) (d), and is further amended by deleting paragraph (7) in its entirety and substituting instead the following language, so that as amended, the new paragraph (6) but not all its subparagraphs, the new subparagraphs (6) (b), (6) (c), and (6) (d), and the new paragraph (7) shall read:

- (6) Continuing Education for Reactivation of Retired, Revoked, or Expired Certificate.
 - (6) (b) Reactivation of Revoked Certification - No person whose certification has been revoked for failure to comply with continuing education may be reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as that for those certificate holders which are active. The required clock hours of continuing education must have been begun and successfully completed before the date of reactivation.
 - (6) (c) Reactivation of Expired Certification - No person whose certificate which has expired may be reactivated without submitting evidence of continuing education. The continuing education hours documented at the time of reactivation must equal the hours required, had the certificate remained in an active status, and must have been begun and successfully completed before the date of reactivation.
 - (6) (d) Continuing education hours obtained as a prerequisite for reactivating a certificate may not be counted toward the calendar year requirement.
- (7) Violations
 - (a) Any certificate holder who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.
 - (b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
 - (c) The certificate holder has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the certificate.

- (d) Any certificate holder who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (7) (b) above may be subject to disciplinary action.
- (e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-106, 63-4-114, 63-4-115, and 63-4-119.

Rule 0260-3-.12, Continuing Education, is amended by deleting paragraph (5) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-106, 63-4-114, 63-4-115, and 63-4-119.

Rule 0260-5-.01, Definitions, is amended by deleting paragraph (3) in its entirety and renumbering the remaining paragraphs accordingly.

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

Rule 0260-5-.09, Renewal of Certification, is amended by deleting subparagraphs (1) (b), (1) (d), and paragraph (2) in their entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (3) and (4), so that as amended, the new subparagraphs (1) (b), (1) (d), and the new paragraphs (2), (3), and (4) shall read:

- (1) (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - For individuals who have not renewed their certification online via the Internet, a renewal application form will be mailed to each individual certified by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the certificate holder from the responsibility of meeting all requirements for renewal.
- (1) (d) Certificate holders who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their certificates processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of an Expired Certificate – Reinstatement of a certificate that has expired may be accomplished upon meeting the following conditions:
 - (a) Payment of all past due renewal fees and state regulatory fees; and
 - (b) Payment of the late renewal fee, pursuant to Rule 0260-5-.06; and
 - (c) Submission of evidence of completion of continuing education requirements pursuant to rule 0260-5-.12.

- (3) Renewal issuance decisions pursuant to this rule may be made administratively, upon review by the board or the board's designee.
- (4) Anyone submitting a signed renewal form or letter which is found to be untrue may be subjected to disciplinary action as provided in rule 0260-5-.14.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-106, and 63-4-123.

Rule 0260-5-.12, Continuing Education, is amended by deleting paragraph (6) but not all its subparagraphs, and substituting instead the following language, and is further amended by deleting subparagraph (6) (b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (6) (c) and (6) (d), and is further amended by deleting paragraph (7) in its entirety and substituting instead the following language, so that as amended, the new paragraph (6) but not all its subparagraphs, the new subparagraphs (6) (b), (6) (c), and (6) (d), and the new paragraph (7) shall read:

- (6) Continuing Education for Reactivation of Retired, Revoked, or Expired Certificate.
 - (6) (b) Reactivation of Revoked Certification - No person whose certification has been revoked for failure to comply with continuing education may be reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as that for those certificate holders which are active. The required clock hours of continuing education must have been begun and successfully completed before the date of reactivation.
 - (6) (c) Reactivation of Expired Certification - No person whose certificate which has expired may be reactivated without submitting evidence of continuing education. The continuing education hours documented at the time of reactivation must equal the hours required, had the certificate remained in an active status, and must have been begun and successfully completed before the date of reactivation.
 - (6) (d) Continuing education hours obtained as a prerequisite for reactivating a certificate may not be counted toward the calendar year requirement.
- (7) Violations
 - (a) Any certificate holder who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.
 - (b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
 - (c) The certificate holder has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the certificate.
 - (d) Any certificate holder who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (7) (b) above may be subject to disciplinary action.
 - (e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-106, 63-4-114, 63-4-115, and 63-4-123.

Rule 0260-5-.12, Continuing Education, is amended by deleting paragraph (5) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-106, 63-4-114, 63-4-115, and 63-4-123.

The notice of rulemaking set out herein was properly filed in the Department of State on the 8th day of August, 2001. (08-03)

DEPARTMENT OF COMMERCE AND INSURANCE - 0780
DIVISION OF SECURITIES

There will be a hearing before the Department of Commerce and Insurance to consider the promulgation of proposed rules respecting the registration of broker-dealers, agents, and investment advisers, and the qualification of securities products for exemptions from registration or for covered security status. 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 the offices of the Securities Division, on the Sixth (6th) floor of the Davy Crockett Tower, Suite 680, located at 500 James Robertson Parkway, Nashville, Tennessee at Nine (9) o'clock in the morning, Central Standard Time on the 18th day of October, 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, Verna Norris, Department of Commerce and Insurance, Davy Crockett Tower, Fifth Floor, 500 James Robertson Parkway, Nashville, Tennessee 37243 and (615) 741-0481.

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

SUMMARY OF PROPOSED RULES**CHAPTER 0780-4-1
GENERAL ADMINISTRATION**

The following subjects will be discussed during the rulemaking hearing:

- 0780-4-1-.03 DEFINITIONS**
- 0780-4-1-.04 ADMINISTRATION OF THE ACT**
- 0780-4-2-.06 STANDARDS OF FAIRNESS AND REASONABLENESS**
- 0780-4-2-.12 NOTICE FILINGS FOR COVERED SECURITIES**
- 0780-4-2-.13 NOTICE FILINGS FOR EXEMPT EMPLOYEE PLANS**
- 0780-4-2-.14 NOTICE FILINGS FOR SECURITIES SOLD TO ACCREDITED INVESTORS**
- 0780-4-3-.01 REGISTRATION**
- 0780-4-3-.02 POST REGISTRATION**
- 0780-4-3-.03 OIL AND GAS ISSUER-DEALERS**
- 0780-4-3-.04 PERSONS DEEMED NOT TO BE BROKER-DEALERS**
- 0780-4-3-.05 EXEMPTIONS FROM INVESTMENT ADVISER REGISTRATION**
- 0780-4-3-.06 INVESTMENT ADVISER NOTICE FILINGS**
- 0780-4-3-.11 PERSONS DEEMED NOT TO BE "AGENTS"**

REPEAL**CHAPTER 0780-4-4 INDUSTRY REGULATION**

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

The notice of rulemaking hearing set out herein was properly filed in the Department of State on the 31st day of August, 2001. (08-61)

**BOARD FOR PROFESSIONAL COUNSELORS, MARITAL AND FAMILY THERAPISTS,
AND CLINICAL PASTORAL THERAPISTS - 0450**

There will be a hearing before the Tennessee Board for Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-22-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Sequoyah Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 7th day of November, 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 0450-1-.01, Definitions, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Approved Supervisor - PC - An approved supervisor for professional experience subsequent to the master's degree is defined as a currently certified or licensed professional counselor, licensed clinical social worker, licensed psychologist, licensed senior psychological examiner, or licensed psychiatrist, who has been licensed or certified at least five (5) years and who takes responsibility for the practice of the supervisee during a specific time to enable the supervisee to meet the requirements of licensing.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-22-102, 63-22-104, and Public Chapter 334 of the Public Acts of 2001.

Rule 0450-1-.05, Procedures for Licensure, is amended by deleting part (5) (b) 1. in its entirety and substituting instead the following language, so that as amended, the new part (5) (b) 1. shall read:

- (5) (b) 1. A qualified supervisor is defined as one who is a Licensed Professional Counselor/Mental Health Service Provider, licensed marital and family therapist, licensed clinical social worker, licensed psychiatrist, licensed senior psychological examiner, or a licensed psychologist with health service provider designation, who is in good standing with their respective licensing boards and professional associations.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-22-102, 63-22-104, 63-22-121, and Public Chapter 334 of the Public Acts of 2001.*

Rule 0450-1-.06, Fees is amended by changing the amounts in part (4) (a) 4. and (4) (c) 5. from \$140.00 to \$190.00.

Authority: *T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-22-102, and 63-22-108.*

Rule 0450-1-.10, Supervision, Post-Masters, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) Professional Counselor's Supervision. Supervision required by this rule shall be a professional experience which is supervised by a currently licensed professional counselor, licensed clinical social worker, licensed psychologist, licensed senior psychological examiner, or licensed psychiatrist, pursuant to rule 0450—1—.01(36), who is providing ongoing, direct clinical review for the purpose of training or teaching and who monitors the performance of a person's supervised interaction with a client and provides regular, documented, face-to-face consultation, guidance, and instructions with respect to the clinical skills and competencies of the person supervised. Supervision may include, without being limited to, the review of case presentations, audio tapes, video tapes, and direct observation.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-22-102, 63-22-104, and Public Chapter 334 of the Public Acts of 2001.*

Rule 0450-1-.13, Professional Ethics, is amended by deleting the introductory language and paragraph (3) in their entirety and substituting instead the following language, so that as amended, the new introductory language, and the new paragraph (3) shall read:

0450-1-.13 PROFESSIONAL ETHICS. All licensees and certificate holders shall comply with the current code of ethics adopted by the American Counseling Association, except to the extent that they conflict with the laws of the state of Tennessee or the rules of the Board. If the codes of ethics conflict with state law or rules, the state law or rules govern the matter. Violation of the codes of ethics or state law or rules may subject a licensee or certificate holder to disciplinary action.

- (3) A copy of the code of ethics may be obtained by writing the American Counseling Association, 5999 Stevenson Avenue, Alexandria, VA 22304.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, and 63-22-102.*

Rule 0450-2-.06, Fees is amended by changing the amounts in part (4) (a) 4. and (4) (b) 5. from \$140.00 to \$190.00.

Authority: *T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-22-102, and 63-22-108.*

Rule 0450-2-.13, Professional Ethics, is amended by deleting paragraph (2) but not its subparagraphs in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) but not its subparagraphs shall read:

0450-2-.13 PROFESSIONAL ETHICS. All licensees and certificate holders shall comply with the current code of ethics adopted by the American Association for Marriage and Family Therapy (AAMFT), except to the extent that they conflict with the laws of the state of Tennessee or the rules of the Board. If the codes of ethics conflict with state law or rules, the state law or rules govern the matter. Violation of the codes of ethics or state law or rules may subject a licensee or certificate holder to disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 63-22-102.

Rule 0450-3-.06, Fees is amended by renumbering (4) 1. through (4) 7. as subparagraphs (4) (a) through (4) (g) and is further amended by changing the amount in newly-numbered subparagraph (4) (e) from \$140.00 to \$190.00.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-22-102, and 63-22-108.

Rule 0450-3-.13, Professional Ethics, is amended by deleting paragraph (2) but not its subparagraphs in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) but not its subparagraphs shall read:

0450-3-.13 PROFESSIONAL ETHICS. All certificate holders shall comply with the current code of ethics adopted by the American Association of Pastoral Counselors (AAPC), except to the extent that they conflict with the laws of the state of Tennessee or the rules of the Board. If the codes of ethics conflict with state law or rules, the state law or rules govern the matter. Violation of the codes of ethics or state law or rules may subject a certificate holder to disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 63-22-102.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2001. (08-58)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF SOLID WASTE MANAGEMENT

There will be a public rulemaking hearing before the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, acting on behalf of the Tennessee Solid Waste Disposal Control Board, to consider the adoption and promulgation of rules and amendments to rules pursuant to the Tennessee Code Annotated Sections 68-212-106, 68-212-107, 68-212-108, 68-212-109, 68-212-110 and 68-212-114; the Tennessee Solid Waste Disposal Act, Tennessee Code Annotated, Section 68-211-101 et seq; the Tennessee Environmental Protection Fund Act, Tennessee Code Annotated, Section 68-203-101 et seq; the Used Oil Collection Act of 1993, Tennessee Code Annotated, Section 68-211-1001 et seq; and the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-101 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 5th Floor Large Conference Room, L&C Tower, 401 Church Street, Nashville, Tennessee at 1:00 p.m. CDT on October 17, 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 in person or by writing, telephone, or other means, and should be made, no less than ten days prior to October 19, 1999 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, Isaac Okoreeh-Baah, 12th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, (615) 532-0059. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

SUMMARY OF PROPOSED RULES

This rulemaking includes multiple and various additions, deletions, and modifications to Rule Chapter 1200-1-11 Hazardous Waste Management. Many of these changes are proposed in response to revisions and additions published in Federal Registers that the U. S. Environmental Protection Agency (EPA) made between November 8, 2000 and July 3, 2001 to the corresponding Federal Regulations. These amendments are intended to make the State's Regulations equivalent to their Federal counterparts. They include certain technical corrections, definitions, housekeeping changes, clarifications, reference changes, typos, and other corrections. Two wastes, K174 and K175, generated by the chlorinated aliphatics industry are being listed as hazardous and prohibited from land disposal. Generators are being required to treat polychlorinated biphenyls (PCBs) if the total concentration of halogenated organic compounds in the soil equals or exceeds 1,000 parts per million (ppm). A PCB treatment requirement is being temporarily deferred under certain conditions. Certain Court vacated parameter limits of baghouses and electrostatic precipitators and the Notice of Intent to Comply (NIC) provisions relating to the standards for hazardous waste combustors are being removed. The amount of dual regulation of certain low-level mixed wastes (LLMW) and technologically enhanced naturally occurring and or accelerator-produced radioactive material (NARM) containing hazardous waste is being reduced. Both are also being exempted from hazardous waste manifest, transportation and disposal requirements when certain conditions are met. Certain improvements to the implementation of the emission standards of Hazardous Waste Combustors are being made. Housekeeping amendments include clarification of the Used Oil Program certification requirements and language, the Farmer exemption, and certain used oil transporter requirements. Certain Hazardous Waste Program public notice and meeting requirements are being clarified. Two Permit Modification Classes are being changed. Rules pertaining to the requirements for waste streams conglomerating (mixing) in a pipe going to an on-site treatment facility or to a publicly owned treatment works (POTW) are also being clarified. The Closure and/or Post closure Insurance financial assurance document is being modified and the Corrective Action Activity fees are also being clarified.

OTHER INFORMATION

The Division has prepared an initial set of draft rules for public review and comment. Copies of these initial draft rules are available for review only at the Division Field Offices located as follows:

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

Cookeville Environmental Assistance Center
1221 South Willow Avenue
Cookeville, TN 38506
(931) 432-4015/ 1-888-891-8332

Jackson Environmental Assistance Center
362 Carriage House Drive
Jackson, TN 38305-2222
(731) 512-1300/ 1-888-891-8332

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

Columbia Environmental Assistance Center
2484 Park Plus Drive
Columbia, TN 38401
(931) 380-3371/ 1-888-891-8332

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

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

Johnson City Environmental Assistance Center
2305 Silverdale Road
Johnson City, TN 37601-2162
(423) 854-5400/ 1-888-891-8332

Additional review copies only are available at the following library locations:

McIver's Grant Public Library
204 North Mill Street
Dyersburg, TN 38024-4631
(731) 285-5032

W. G. Rhea Public Library
400 West Washington Street
Paris, TN 38242-0456
(731) 642-1702

Hardin County Library
1013 Main Street
Savannah, TN 38372-1903
(731) 925-4314

Clarksville-Montgomery County Public Library
350 Pageant Lane, Suite 501
Clarksville, TN 37040-0005
(931) 648-8826

Coffee County-Manchester Public Library
1005 Hillsboro Highway
Manchester, TN 37355-2099
(931) 723-5143

Art Circle Public Library
154 East First Street
Crossville, TN 38555-4696
(931) 484-6790

E. G. Fisher Public Library
1289 Ingleside Ave.
Athens, TN 37371-1812
(423) 745-7782

Kingsport Public Library & Archives
400 Broad Street
Kingsport, TN 37660-4292
(423) 229-9489

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

Copies are also available for review at the Nashville central office (see address below). They may be purchased at the central office location only (\$75.00 per copy if picked up or \$84.00 per copy if mailed, which includes shipping and handling, payable in advance) by calling or writing Mr. Bill McDuffee at:

Tennessee Department of Environment and Conservation
Division of Solid Waste Management
5th Floor, L & C Tower
401 Church Street
Nashville, TN 37243-1535
(615) 532-0835

Office hours for the Division's offices are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to: Division of Solid Waste Management; Tennessee Department of Environment and Conservation; Attention: Mr. Gerald Ingram; 5th Floor, L & C Tower; 401 Church Street; Nashville, Tennessee 37243-1535; telephone 615-532-0850 or FAX 615-532-0886. However, such written comments must be received by the Division by 4:30 PM CST, October 31, 2001 in order to assure consideration. For further information, contact Mr. Gerald Ingram at the above address or telephone number.

The Notice of Rulemaking set out herein was properly filed in the Department of State on the 23rd day of August, 2001. (08-25)

**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, Main Courtroom, Main Street, Blountville, Tennessee on October 17, 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 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 |
|----------------------|---------------------------------|
| Sullivan County (82) | |
| 82-522 | Bear Hollow Dump 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 14th day of August, 2001. (08-08)08-09

**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, Main Courtroom, Main Street, Blountville, Tennessee on October 17, 2001 at 6:30 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 |
|----------------------|-----------------------------|
| Sullivan County (82) | |
| 82-526 | Bethel Drive 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 14th day of August, 2001. (08-09)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF WATER SUPPLY**

There will be a hearing before the Division of Water Supply Staff representing the Water Quality Control Board of the Department of Environment and Conservation to hear comments from the public concerning amendments to the Regulations for Underground Injection Chapter 1200-4-6 pursuant to T.C.A. 69-3-105 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 on the 17th floor conference room B, L&C Tower, 401 Church Street, Nashville, TN on the 17th day of October, 2001. Written comments will be considered if received by close of business November 17, 2001. Written comments should be mailed to the Tennessee Division of Water Supply, 6th Floor L&C Tower, 401 Church Street, Nashville, TN 37243-1549.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than (10) days prior to the scheduled meeting date to allow time for the Department to determine how it may reasonable provide such aid or service. Initial contact may be made with the Department’s ADA Coordinator, Mr. Isaac Okoreeh-Baah, Division of Real Property Management, 7th Floor, L&C Annex, 401 Church Street, Nashville, TN 37243-0449 whose telephone number is (615) 532-0059.

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

Scotty Sorrells
UIC Coordinator
TN Division of Water Supply
401 Church Street
Nashville, TN
(615) 532-9224

or the nearest Environmental Assistance Center of the Tennessee Division of Water Supply at 1-888-891-8332. A complete copy of the proposed Rules may also be found by visiting the Department of Environment and Conservation’s Web site at <http://www.state.tn.us/environment/dws>.

SUBSTANCE OF THE PROPOSED RULES

**PROPOSED RULES
OF
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER SUPPLY
CHAPTER 1200-4-6
UNDERGROUND INJECTION CONTROL**

AMENDMENT

Subparagraph (c) of paragraph (1) of Rule 1200-4-6-.18 Fees For Class V Injection Wells is amended by deleting the existing subparagraph in its entirety and by the addition of the following language so that as amended subparagraph (c) shall read:

- (c) Commercial/industrial geothermal wells
 - Open loop systems.....\$750.00 (per facility)

Authority: T.C.A. §§69-3-105 and 4-5-201 et seq.

The notice of rulemaking set out herein was properly filed in the Department of State on the 23rd day of August, 2001. (08-23)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF WATER SUPPLY**

There will a hearing before the Division of Water Supply Staff representing the Water Quality Control Board of the Department of Environment and Conservation to hear comments from the public concerning amendments to the Regulations for Public Water Systems and Drinking Water Quality Chapter 1200-5-1 pursuant to T.C.A. 68-221-701 et seq. The proposed amendments were drafted primarily to incorporate into state regulations the revisions to the uranium regulations promulgated by the EPA December 7, 2000, and the filter backwash recycling rule promulgated by the EPA June 8, 2001.

Fleming Training Center, 2022 Blanton Drive, Main Auditorium, Murfreesboro, TN, 10:00 AM CST, November 7, 2001

Written comments will be also considered if received at the Division of Water Supply, 401 Church Street, Nashville, TN 37243-1549 by the close of business November 30, 2001.

Individuals with disabilities who wish to participate in these proceedings (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 days prior to the (scheduled meeting date) (date such party intends to review such filings), to allow time to provide such aid or service. Contact the ADA Coordinator, 401 Church Street, 7th Floor L & C Tower, Nashville, TN 37243, 1-888-867-2757. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

For a copy of the entire text of this notice of rulemaking hearing, contact the nearest office of the Tennessee Division of Water Supply at 1-888-891-8332 or the central office of the Division at 615-532-0191. A complete text of the proposed Rules may also be found by visiting the Department of Environment and Conservation's Web site at <http://www.state.tn.us/environment/dws>.

SUMMARY OF THE PROPOSED RULES

**CHAPTER 1200-5-1
PUBLIC WATER SYSTEMS**

The Environmental Protection Agency published a new radionuclide rule December 7, 2000. The rule resulted from Congress directing the EPA to align its radionuclide monitoring requirements with the standard monitoring requirements for other inorganic contaminants. The federal rules established a new standard for uranium, retained the gross alpha, radium -226, radium -228, beta and photon radioactivity standards. It specified sampling and analytical methods and directed the state to have a plan to assure samples from each community water system required to monitor are analyzed.

On April 10, 2001, the EPA published the Filter Backwash Recycling Rule. The filter backwash recycling rule is designed to ensure that the recycling practices of systems that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes do not compromise microbial control. Public water systems that recycle flows will be required to provide the state with information by December 8, 2003, that will enable the state to determine if microbial control might be compromised.

The Department of Environment and Conservation has proposed rules to incorporate these federal requirements into Tennessee's Public Water System Regulations contained in Chapter 1200-5-1.

The notice of rulemaking set out herein was properly filed in the Department of State on the 23rd day of August, 2001. (08-24)

**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 the Room 16 of the Legislative Plaza, 6th Avenue North, Nashville, Tennessee, at 9:00 a.m. C.D.T. on the 16th day of October 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

Part 5. of subparagraph (a) of paragraph (4) of rule 1200-13-1-.06 Provider Reimbursement is amended by adding a paragraph at the end of part 5. which shall read as follows:

The cost report closing date for determination of the Level I 65th percentile shall be the first working day of the month preceding the month in which the recomputed 65th percentile is effective. All clean cost reports received by the Comptroller's Office on or before the closing date shall be included in the determination of the 65th percentile ceiling. A clean cost report is one upon which rates may be set without additional communication from the provider. Home office cost reports must be filed before any individual nursing home cost reports included in a chain can be processed.

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 14th day of August, 2001. (08-07)

**DEPARTMENT OF HEALTH - 1200
BOARD OF ALCOHOL AND DRUG ABUSE COUNSELORS**

There will be a hearing before the Tennessee Board of Alcohol and Drug Abuse Counselors to consider the promulgation of amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, 68-24-605, and 68-24-606. 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 Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 10th day of December, 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 1200-30-1-.01, Definitions, is amended by deleting paragraph (1) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-24-605, and 68-24-606.

Rule 1200-30-1-.06, Fees, is amended by deleting subparagraphs (3) (a) and (3) (g) in their entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (4), so that as amended, the new subparagraphs (3) (a) and (3) (g) and the new paragraph (4) shall read:

- (3) (a) Application Fee \$ 220.00
- (3) (g) Renewal (Biennial) Fee \$ 235.00
- (4) Subparagraphs (3) (a) and (3) (g) of this rule include a \$35.00 fee to support the Board's professional peer assistance program.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 68-24-605, and 68-24-606.

Rule 1200-30-1-.08, Examinations, is amended by deleting subparagraphs (2) (b) and (2) (e) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (2) (b) and (2) (e) shall read:

- (2) (b) The oral examination shall be administered by a panel consisting of
1. any three (3) members of the Board; or
 2. a panel of three (3) examiners selected by the Board who
 - (i) possess active, unrestricted, and unencumbered licenses to practice alcohol and drug abuse counseling in Tennessee that have not been disciplined, restricted, or encumbered for the past five (5) years; and
 - (ii) if licensed or certified to practice alcohol and drug abuse counseling in other states, possess active, unrestricted, and unencumbered licenses to practice alcohol and drug abuse counseling in such other states that have not been disciplined, restricted, or encumbered for the past five (5) years; and
 - (iii) if licensed or certified to practice any other health-related profession in Tennessee or in any other state, possess active, unrestricted, and unencumbered licenses to practice such health-related professions that have not been disciplined, restricted, or encumbered for the past five (5) years.
- (2) (e) The oral examination panel shall make a recommendation of pass or fail and the Board shall review such recommendation before making its decision. At its discretion, the Board may accept the examination panel's recommendation, reverse the recommendation, or request another examination by a new panel. The written report of the oral examination panel, including the panel recommendation, becomes a part of the applicant's licensure file. It is required that all oral examinations be audiotaped. At its discretion, the Board may review the entire contents of the audiotaped record before making its decision. The audiotaped record of every failed oral examination will be maintained at the Board office until the applicant has successfully passed the oral examination.

Authority: *T.C.A. §§4-5-202, 4-5-204, and 68-24-605.*

Rule 1200-30-1-.09, Renewal of License, is amended by deleting subparagraphs (1) (b), (1) (e), and paragraph (2) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (b), (1) (e) and the new paragraph (2) shall read:

- (1) (b) Methods of Renewal
1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (1) (e) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.

(2) Reinstatement of Expired License

- (a) Reinstatement of an expired license may be accomplished upon filing a reinstatement application and payment of reinstatement, renewal and late renewal fees pursuant to rule 1200-30-1-.06.
- (b) If requested, an applicant for reinstatement shall appear before the Board for an interview.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-24-605, and 68-24-606.

Rule 1200-30-1-.12, Continuing Education, is amended by adding the following language as new subparagraphs (9) (d), (9) (e), and (9) (f):

- (9) (d) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
- (9) (e) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.
- (9) (f) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (9) (d) above may be subject to disciplinary action.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-24-605, and 68-24-606.

Rule 1200-30-1-.12, Continuing Education, is amended by deleting paragraph (6) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-24-605, and 68-24-606.

Rule 1200-30-1-.15, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (e) but not all its parts in its entirety, and is further amended by deleting part (1) (e) 1. in its entirety, and is further amended by renumbering part (1) (e) 2. as subparagraph (1) (e).

Authority: T.C.A. §§4-5-202, 4-5-204, 68-24-605, and 68-24-606.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2001. (08-39)

**DEPARTMENT OF HEALTH - 1200
BUREAU OF HEALTH SERVICES
NUTRITION SERVICES SECTION**

There will be a hearing before the Department of Health to consider the promulgation of rules pursuant to Tennessee Code Annotated § 68-1-106. 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 Conference Room C of the Cordell Hull Building located on the second floor at 425 Fifth Avenue, North, Nashville, TN, at 1:00 central time on the 17th day of October, 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 in the Division of Human Resources, Andrew Johnson Tower, 710 James Robertson Parkway, 11th Floor, Nashville, TN 37247-0103 or call 615-741-6350.

For a copy of this rule, contact Jerry Orenstein, Department of Health, Nutrition Services Section, Cordell Hull Building, Fifth Floor, 425 Fifth Avenue, North, Nashville, Tennessee 37247-5310 (telephone 615-532-8177).

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1200-15-2-.01 DEFINITIONS.

- (1) The following definitions shall apply to this part and all contracts, guidelines, instructions, forms and other documents related hereto.
 - (a) “7 CFR Part 246” means the section of the Code of Federal Regulations (CFR) which governs the operation of the WIC Program.
 - (b) “Administrative review” means the process by which a vendor or participant may appeal adverse actions taken against them by the Department. All formal hearings will be held in accordance with the Uniform Administrative Procedures Act, T.C.A. §4–5–101, et seq, and administrative reviews will be held in accordance with 7 CFR 246.18 and as provided in these rules.
 - (c) “Adjunctive eligibility” means automatic income eligibility for WIC, based on eligibility for another federal Program, as defined in 7 CFR Part 246.7(d)(2)(vi).
 - (d) “Approved foods” means types, brands, or varieties of foods meeting the Program requirements established under the federal regulations found in 7 CFR Part 246.10. Foods selected by the Department for the Program in Tennessee can be further limited due to cost, availability, packaging, or other reasons as defined in the current Tennessee Food Package Policy and as provided by Central Office to food manufacturers and other interested parties needing this information.

- (e) “Breastfeeding woman” means a participant who is breastfeeding her baby up to twelve months after delivery.
- (f) “Central Office” means the office site operated by the Department which is responsible for the overall operation of the Program.
- (g) “Child” means a person five (5) years of age or younger.
- (h) “Civil money penalty” means a monetary penalty assessed in lieu of disqualification.
- (i) “Claim” means a request for reimbursement of Program funds taken by the Department resulting from the detection of any questionable voucher redeemed by a vendor, suspected vendor overcharges, or other errors by the vendor, either intentional or unintentional, or an intentional participant violation that affects the receipt of Program benefits by the participant.
- (j) “Commissioner” means the Commissioner of the Tennessee Department of Health or their designee.
- (k) “Competitive prices” means shelf prices for approved foods that are competitive with the WIC vendors in the same peer group and region within the state.
- (l) “Department” means the Tennessee Department of Health.
- (m) “Disqualification” means the withdrawal of authorization as a WIC vendor as a result of fraud, abuse, violation of federal regulations, or continued failure to meet Program requirements prior to the expiration of a WIC Vendor Agreement.
- (n) “Dual participation” means simultaneous participation in either the Program in more than one clinic and/or region, or participation in the Program and in the Commodity Supplemental Food Program, or in another WIC Program in another state.
- (o) “Food instrument” means a negotiable check with a limited period of validity used by a Program participant to purchase approved foods at an authorized WIC vendor.
- (p) “Food package” means the types and amounts of approved foods based on the nutritional needs of the participant.
- (q) “Grocery store” means a retail store whose primary business is the sale of food. Its purpose is to provide participants with a selection of approved foods that meets the Program’s minimum stock requirement.
- (r) “Income” means gross income before taxes. Source of income is further defined in the WIC Manual.
- (s) “Infant” means a baby up to twelve (12) months of age.
- (t) “Lock-in status” means vouchers must be presented to a vendor specified by the Program, on a specific day, mutually agreed upon between the Program and the participant.
- (u) “Minimum stock requirement” means the types, varieties, brands, and quantities of approved foods a grocery store is required to keep available as established by the Department for the Program.
- (v) “Nutritional risk” as defined by federal regulation means:

1. detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements; or
 2. other documented nutritionally related medical conditions, such as
 - (i) dietary deficiencies that impair or endanger health; or
 - (ii) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions.
- (w) “Overcharge” means an act committed by a vendor of seeking and/or accepting an excess of Program funds for approved foods than is permitted under the WIC Vendor Agreement. Such an act may result in a sanction whether it is intentional or unintentional.
- (x) “Parent/caretaker” means a parent of an infant or child participant or a person other than a parent, who is responsible for the care of the infant or child and who enrolls them in the Program.
- (y) “Participant” means a pregnant woman, breastfeeding woman, postpartum woman, infant, or child who is receiving supplemental foods or food instruments under the Program.
- (z) “Participation” means a monthly count of persons who have received supplemental foods or food instruments.
- (aa) “Pattern” means an act that occurs two (2) or more times.
- (bb) “Peer group” means a group of WIC vendors who have common characteristics, including, but not limited to, type of business, type of ownership, total sales volume, and pricing of approved foods and are located in the same geographic region.
- (cc) “Pharmacy” means a retail establishment licensed by the State of Tennessee to operate as a pharmacy. Its purpose for authorization in the Program is to provide Special Formulas defined in the WIC Manual. These formulas are issued to a participant when prescribed by written order from a physician or nurse clinician under physician supervision.
- (dd) “Postpartum woman” means a participant who is not breastfeeding her baby, but may remain on the Program for up to six months after delivery.
- (ee) “Program” means the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) authorized by Section 17 of the Child Nutrition Act of 1966, as amended.
- (ff) “Proxy” means a person designated, in writing, by the participant or parent/caretaker to receive the vouchers when issued and shop for the supplemental foods issued on the voucher. Parents or caretakers applying on behalf of child and infant participants are not proxies.
- (gg) “Redemption” means the procedure during which the vendor receives payment for vouchers previously submitted following the requirements of the WIC Vendor Agreement.
- (hh) “Regional Office” means an administrative site operated by or under contract with the Department to provide Program services for its designated geographic area.

- (ii) “Sanction” means a disciplinary action taken by the Department as described in sections 1200-15-2-.06 Participant Program Violations and 1200-15-2-.08 Vendor Program Violations.
- (jj) “Trafficking” means the exchange of WIC vouchers for cash.
- (kk) “Transaction” or “transacted” means the procedure during which the participant, parent/caretaker or proxy presents a voucher to an authorized WIC vendor in exchange for the approved foods listed on the voucher.
- (ll) “USDA” means the United States Department of Agriculture.
- (mm) “Vendor” means a retail grocery store or pharmacy that agrees to abide by applicable policies and procedures as delineated in 7 CFR Part 246.12, Department rules, the WIC Vendor Agreement, and the WIC Vendor Handbook. A vendor is authorized by the Department to accept vouchers and provide the supplemental foods issued on the voucher. A vendor encompasses both a business entity and the physical location of a business.
- (nn) “Vendor Application for Authorization to Participate in the Tennessee WIC Program” means the standard application form and attachments required by the Department for a potential vendor to participate in the Program. The application must be signed by the Department’s authorized designee, as well as an owner or an owner’s authorized designee.
- (oo) “Vendor Representative” means the regional office staff person who is responsible for contracting the WIC vendor and assuring compliance with the WIC Vendor Agreement.
- (pp) “Violation” means each act of non-compliance that occurs or a series of acts that together equate to a violation.
- (qq) “Voucher stamp” means a device provided by the Department which imprints the WIC vendor’s name and assigned number on redeemed vouchers.
- (rr) “Voucher” - see “Food instrument”
- (ss) “WIC food”-see “Approved foods”
- (tt) “WIC Food List” means the current list of approved foods as provided by the Department to participants and contracted grocery stores.
- (uu) “WIC Grocer Price Report Card” means the form submitted by contracted grocery stores at time of application and then on a periodic basis as required by the Department to report prices of specific approved foods.
- (vv) “WIC Manual” means the current publication produced by the Department that contains Program information, policies, procedures, sample reports, and forms for use by Program staff in the regional offices and local health department clinics.
- (ww) “WIC Vendor Agreement” means the standard written departmental agreement that specifies the terms and conditions for a WIC vendor to participate in the Program. (The agreement must be signed by an owner or an owner’s authorized designee and the Department’s authorized designee. See Vendor Application.)

- (xx) “WIC Vendor Handbook” means the current publication produced by the Department that contains Program information, policies, and procedures to be followed by WIC vendors.
- (yy) “WIC Vendor Management Manual” means the current publication produced by the Department that contains Program information, policies, procedures, sample reports and forms for use by Program staff in the Central Office and the Regional Offices.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-1-106.

1200-15-2-.02 PURPOSE.

- (1) WIC is the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) administered by the Tennessee Department of Health. The purpose of the Program is to provide supplemental foods, nutrition education, and breastfeeding promotion to eligible persons. The Program serves as an adjunct to good health care during critical times of human growth and development.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-1-106.

1200-15-2-.03 ELIGIBILITY.

- (1) In order to participate in the Program, an applicant must:
 - (a) be a resident of the state of Tennessee, and
 - (b) have income per family size not exceeding 185% of the USDA poverty income guidelines most recently published in the Federal Register or have adjunctive eligibility, and
 - (c) be found to be at nutritional risk.
 - (d) When resources are limited, participants will be served within priority groups as defined in 7 CFR Part 246 and published in the WIC Manual.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-1-106.

1200-15-2-.04 ISSUANCE OF VOUCHERS.

- (1) Vouchers shall only be issued to a participant, a parent/caretaker, or an authorized proxy designated by the participant or parent/caretaker in writing in accordance with policy as described in the WIC Manual.
- (2) Vouchers shall be issued for specific food packages based on the nutritional needs of participants in accordance with policies as described in the WIC Manual.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-1-106.

1200-15-2-.05 VOUCHER TRANSACTIONS AND REDEMPTION.

- (1) Vouchers must be transacted only for approved foods as described in the WIC Manual. Cash, credit, including rainchecks, may not be provided in exchange for vouchers.
- (2) Vouchers must be transacted only up to the amount of food specified.
- (3) Prices charged for approved foods must be the same or lower than the current prices charged to other customers, excluding sales tax which may not be charged.
- (4) No exchanges of approved foods are allowed following completion of a transaction, except for an exact exchange for food items that are defective, spoiled, or exceed their “sell/use by” date.
- (5) The participant, parent/caretaker, or proxy must transact vouchers within the month for which they are valid. Vouchers must be submitted for redemption within sixty (60) days from the last day valid.
- (6) The purchase price and redeemed date must be entered on the voucher before it is signed in the presence of vendor staff.
- (7) The vendor shall not collect payment from participants for vouchers that are returned from the bank unpaid.
- (8) The cost of a food package redeemed by a WIC vendor is controlled by the prices submitted periodically by the WIC vendor, as described in WIC Vendor Agreement.
- (9) Vouchers can be redeemed only up to the amount of the prices submitted by the WIC vendor to the Program.
- (10) The Department may submit a claim to the vendor for Program violations resulting in unjustified overcharges. These claims will be for redeeming a voucher over the vendor’s reported prices or over the “Do Not Exceed” amount of the voucher, charging WIC participants more for WIC foods than non-WIC customers, charging for items not received by the participant, charging for items not authorized, or charging more than the current shelf price. When questioned by the Department, the vendor shall be given the opportunity to justify or correct the overcharge. The claim for reimbursement is not subject to a hearing or administrative review as stated in 7 CFR Part 246.18(a)(1)(iii) and the WIC Vendor Agreement.
- (11) The Department may make price adjustments to vouchers containing errors in the purchase price once the voucher has been presented to the Department for validation. The price adjustment must comply with the price limitations as stated in the WIC Vendor Agreement. The price adjustment is not subject to a hearing or administrative review as stated in 7 CFR Part 246.18(a)(1)(iii) and the WIC Vendor Agreement.
- (12) The vendor may not appeal to the Department any voucher payment disputes.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, and 68-1-106.*

1200-15-2-.06 PARTICIPANT PROGRAM VIOLATIONS.

- (1) The Department shall submit to the participant or parent/caretaker a claim requiring repayment of the value of any Program benefits obtained or disposed of improperly. This includes dishonesty in the use of vouchers; providing false information for certification including dual participation; sale of supplemental food or food instruments to, or exchange with, other individuals or entities; receipt from WIC vendors of cash or credit toward purchase of unauthorized food or other items; or physical abuse or threat of physical abuse of health department or vendor staff. The participant or parent/caretaker accepts responsibility for understanding the preceding situations upon signing the Department’s “Informed Consent/Signature Sheet” during the procedures for determining eligibility in the Program.

- (2) A participant may be disqualified up to twelve months for proven claims of less than \$100, except for dual participation or a second or subsequent claim for which the disqualified period must be one-year. When the participant is an infant or child, and the parent/caretaker is guilty of the violations set forth in item (1) of this section, further participation by the infant or child shall be as a lock-in status.
- (3) A participant must be disqualified for one-year for proven claims of \$100 or more. However, the disqualification may be waived by the Department if full repayment is made or a payment schedule agreed upon within thirty (30) days of receipt of the letter demanding repayment. If a participant is an infant, child, or a woman under age eighteen (18), the disqualification may be waived without full repayment or a payment schedule agreed upon if the Department approves a designated proxy. Repeated violations of this nature may result in disqualification.
- (4) A participant may be given an opportunity to reapply for the Program before the end of a mandatory one-year disqualification if full payment is made or a payment schedule is agreed upon within thirty (30) days of receipt of the letter demanding repayment. If a participant is an infant, child, or a woman under age eighteen (18), an opportunity to reapply for the Program before the end of a mandatory one-year disqualification may be offered without full repayment or a payment schedule being agreed upon if the Department approves a designated proxy.
- (5) The Department may provide warnings to the participant, parent or caretaker of an infant or child participant, or proxy before issuing a sanction.
- (6) A participant will be given an opportunity for a hearing following the Fair Hearing Procedure (WIC/CSFP Programs) of the Tennessee Department of Health, posted in each clinic, prior to any adverse action. The participant must request a hearing within ninety (90) days of the notice of the adverse action. All hearings will be conducted in accordance with the Uniform Administrative Procedures Act, T.C.A. §4-5-101, et seq.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, and 68-1-106.*

1200-15-2-.07 VENDOR AGREEMENTS.

- (1) The Department utilizes a retail purchase food delivery system in which participants obtain approved foods by transacting vouchers at local WIC vendors. The WIC vendor must comply with federal regulations and the policies and procedures found in the WIC Vendor Handbook. The Department is not obligated to pay for any voucher accepted by a vendor who was not authorized at the time of the voucher was accepted.
- (2) A potential WIC vendor must operate at a permanent fixed location. A retail grocery store must also currently participate in the Food Stamp Program in accordance with the regulations in 7 CFR Part 278 without being under a civil money penalty before authorization by the Department as a WIC vendor. The Department does not require pharmacies to participate in the Food Stamp Program. However, if they do participate, and the Food Stamp Program has issued them a civil money penalty, they must inform the Department when applying for authorization as a vendor.
- (3) A potential vendor may apply by submitting a completed and signed Vendor Application for Authorization to Participate in the Tennessee WIC Program to the designated Program staff person in the appropriate region. Pharmacies receive written notification of waived requirements. Initial applications may be submitted at anytime.
- (4) An incomplete or inaccurate application will be denied and returned within fifteen (15) calendar days of its receipt, unless the only item missing is the Food Stamp Authorization, which has been applied for, but not received. The application will be processed, but the vendor shall not be authorized until a copy of the Food Stamp Authorization has been provided. If the potential vendor does not resubmit the corrected application within fifteen (15) calendar days from receipt of the denial, an application will not be accepted again for six (6) months from the effective date of the denial. If the resubmitted application is then denied two (2) additional times, any application will not be accepted again for six (6) months from the date of the first denial.

- (5) A potential vendor must demonstrate good business integrity, based on facts known by the Department and representations made on the application. Unless denying authorization as a vendor would create a hardship for participants' vouchers to be redeemed, if any owner, officer, or manager has been convicted of or had a civil judgment entered against them for any activity indicating a lack of business integrity, the application shall be denied.
- (6) The Department must establish appropriate criteria, as described in paragraph (7) below, to use in the decision to determine authorization of a vendor. The potential vendor may not ask the Department for a hearing or administrative review regarding the appropriateness of these criteria. However, the vendor may appeal a decision to deny authorization as a vendor as described in section 1200-15-2-.10 Appeals and Administrative Reviews.
- (7) The application is subject to verification of the minimum stock requirement, competitive prices with other vendors of similar size in a peer group, and a positive compliance history with sanitation authorities. If the minimum stock is not available and/or competitive prices can not be verified during the Vendor Representative's first visit to the store's location, there will be a second unannounced visit within fifteen (15) calendar days. If the minimum stock requirement and/or verification of competitive prices are still not met, application will not be accepted again for six (6) months from the date of the second visit. Pharmacies are exempt from minimum stock and competitive pricing requirements.
- (8) The Department may not authorize a potential vendor if it determines that the previous ownership has sold the store in order to circumvent a WIC sanction. This includes selling to a relative by blood or marriage or to any individual or organization for less than the fair market value. The subsequent buyer cannot be authorized as a vendor, unless such sale was conducted as an arms length transaction.
- (9) The final decision to approve or deny the application will be made within sixty (60) days from the date of receipt of the completed application.
- (10) Once approved, the store must execute a WIC Vendor Agreement with the Department. The vendor will be authorized to accept vouchers fifteen (15) days following the completion of WIC training provided by the Department. The training must be attended by an owner or an owner's authorized designee.
- (11) At least one person representing the vendor must participate in annual training.
- (12) The WIC Vendor Agreement will be terminated if the Department determines the vendor provided false information in connection with its application.
- (13) The Department may reassess any authorized vendor at any time during the current WIC Vendor Agreement period using the vendor selection criteria in effect at the time of the reassessment. The agreement for a vendor that does not meet the selection criteria must be terminated as stated in 7 CFR Part 246.12(h)(3)(xxiv) and the WIC Vendor Agreement.
- (14) The WIC Vendor Agreement does not constitute a license or a property interest. If the vendor wishes to continue to be authorized beyond the period of its current agreement, the vendor must reapply for authorization.
- (15) The WIC Vendor Agreement shall be terminated if the vendor is disqualified from the Program.
- (16) The Department must provide the vendor with as much advance notice as possible regarding changes to federal and State Program statutes, rules, and regulations, before implementing such changes.
- (17) The Department will provide not less than fifteen (15) calendar days advance written notice of expiration prior to the expiration date of the WIC Vendor Agreement. The vendor must apply for reauthorization prior to this expiration

date. However, neither the Department nor the WIC vendor has an obligation to enter into a new agreement. The Department shall consider the vendor's satisfactory compliance with the previous agreement before making its' decision.

- (18) The vendor may not ask the Department for an administrative review regarding either the expiration of the WIC Vendor Agreement or the appropriateness of the current criteria used by the Department at the time of reauthorization as stated in 7 CFR Part 246.18(a)(1)(iii) and the WIC Vendor Agreement.
- (19) During the term of the WIC Vendor Agreement, either the Department or the WIC vendor may terminate for cause, after providing not less than fifteen (15) calendar days advance written notice.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, and 68-1-106.*

1200-15-2-.08 VENDOR PROGRAM VIOLATIONS.

- (1) The Department may take actions such as disqualification, civil money penalties (CMP) in lieu of disqualification and claims, for Program violations and non-compliance with the WIC Vendor Agreement as described in this section. The vendor shall be given the opportunity to appeal any adverse action following procedures in 1200-15-2-.10.
- (2) The vendor is responsible for its owners, officers, managers, agents, and employees who commit vendor violations.
- (3) The vendor shall make inventory and other required records and all vouchers on hand available upon request of the Department.
- (4) The WIC Vendor Agreement will be terminated, if the Department identifies a conflict of interest between the vendor and Program staff who administer the Program on behalf of USDA and the Department.
- (5) Compliance with the WIC Vendor Agreement will be verified by activities conducted by Program staff. This includes on-site routine monitoring visits, the auditing of the vendor's invoices to confirm sufficient stock was on hand to transact vouchers, and computer monitoring of food prices and voucher redemption activity. In addition, investigators from Department staff, or under contract with the Department, may pose as participants to conduct compliance purchases.
- (6) Non-compliance is cause for sanctions against the WIC vendor, as described in the WIC Vendor Handbook. These sanctions include disqualification, a civil money penalty (CMP) in lieu of disqualification, in addition to other remedies available by law. Prior warning is not required before sanctions are issued. The Program may use installment plans for the collection of CMP's. However, if the WIC vendor does not honor an installment plan for a CMP, the WIC vendor shall be disqualified for the same corresponding length of time as the original disqualification. Specific sanctions and periods of enforcement are found in the WIC Vendor Handbook. The following is a description of these sanctions. Subparts (a)-(d) are federally mandated; (e)-(f) are State established.
 - (a) Permanent disqualification for:
 - 1. conviction by a court of competent jurisdiction of trafficking in WIC vouchers, or
 - 2. conviction by a court of competent jurisdiction of selling firearms, ammunition, explosives, or controlled substances, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), in exchange for WIC vouchers.

- (b) Six-year disqualification for:
 - 1. one or more incidences of investigative finding of trafficking in WIC vouchers; or
 - 2. one or more incidences of investigative finding of selling firearms, ammunition, explosives, or controlled substances.
- (c) Three-year disqualification for:
 - 1. one or more incidence of investigative finding of the sale of alcohol, alcoholic beverages, or tobacco products in exchange for WIC vouchers;
 - 2. a pattern of claiming reimbursement for more of a WIC food item than the vendor's documented inventory shows was on hand for a specific time period;
 - 3. a pattern of overcharging;
 - 4. a pattern of receiving, transacting, and/or redeeming WIC vouchers outside of authorized channels including a vendor's location not contracted to accept WIC vouchers and/or from someone other than the person who signed the WIC voucher at the WIC Clinic;
 - 5. a pattern of charging for WIC foods not provided to the participant at the time of the transaction; or
 - 6. a pattern of providing credit or non-food items (e.g., paper towels, tissues) in exchange for WIC vouchers, (other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances, which only require one (1) incidence).
- (d) One-year disqualification for:
 - 1. a pattern of providing non-WIC foods and/or a quantity of WIC food greater than allowed on the WIC vouchers.
- (e) One-year disqualification for first violation for:
 - 1. intentionally providing false information on the WIC Grocer Price Report Card;
 - 2. failing to allow any authorized WIC representative the right to inspect vouchers on hand;
 - 3. failing to withhold deposit of WIC vouchers for up to seven (7) days upon request of an authorized WIC representative; or
 - 4. failing to produce bills of lading or invoices upon request of an authorized WIC representative.
- (f) Six-month disqualification for first violation and one-year disqualification for second violation for:
 - 1. failing to reimburse the WIC Program for a claim of reimbursement regarding one or more WIC vouchers;
 - 2. failing to lower prices on approved WIC foods upon request of an authorized WIC representative;
 - 3. failing to allow employee training on WIC procedures including having in place an effective policy and program to prevent trafficking;

4. failing of ownership/management to be knowledgeable of WIC procedures and be accountable for employee actions;
 5. collecting reimbursement from a WIC participant(s) for a voucher(s) returned unpaid from the WIC Program's bank contractor;
 6. failing to treat all WIC participants the same regardless of race, color, national origin, age, gender, disability, religious or political belief;
 7. failing to meet minimum stock requirements for approved WIC foods including having stock within eligible product dates;
 8. failing to provide suitable hours and an environment for participant access including, but not limited to, not restricting the hours to redeem WIC vouchers, not keeping WIC participants from using a check-out available to all other customers, and not acting in a way that abuses or embarrasses a WIC participant;
 9. failing to offer WIC participants any courtesies offered other customers including, but not limited to, bonus cards, multiplying of coupon values, and additional products for free;
 10. requiring WIC participants to sign WIC vouchers without first entering the redeemed date and/or redeemed amount;
 11. failing to obtain a signature on WIC vouchers at the time of the transaction;
 12. redeeming WIC vouchers not valid for the month in which they are redeemed; or
 13. failing to conduct WIC transactions only on the vendor's premises.
- (7) WIC vendors who are disqualified by the Food Stamp Program or another State WIC Agency may also be disqualified by the Program for the same length of time, unless doing so would place a hardship on participants.
- (8) A civil money penalty may be imposed when disqualification would place a hardship upon participants who normally redeemed their vouchers at that particular location. This includes a decision for disqualification made by the Program, the Food Stamp Program or another State WIC Agency. The participant access determination must be made in writing by the Department and is not subject to challenge by the vendor. This determination is to be based on the availability of at least one other vendor within a reasonable distance of the vendor to be disqualified. The other vendor(s) must be reachable by participants using available transportation such as automobile, public transit, and/or walking without geographic barriers. Such barriers might include, but are not limited to, interstate highways, rivers, bridges not open to foot traffic, and steep terrain. A civil money penalty issued in lieu of permanent disqualification shall be \$10,000. For any other period of disqualification, the CMP shall be based on ten (10) percent of the vendor's average WIC redeemed dollar amount for the previous six-month period multiplied by the number of months the vendor would have been disqualified but shall not exceed \$10,000 for each violation or \$40,000 for multiple violations.
- (9) When a vendor previously assessed a federally mandated sanction for any of the one, three, or six-year periods is to be sanctioned again for any of these violations, the disqualification period shall be doubled. If a CMP is to be issued, the amount of the CMP shall be doubled up to the \$40,000 maximum stated in (8) above. When a vendor previously assessed a federally mandated sanction twice for any of these violations commits any one of them for the third time or greater, the disqualification period shall be doubled. A CMP shall not be issued in these situations.

- (10) When a vendor previously assessed a State established sanction for any of the six-month or one-year periods is to be sanctioned again for any of these violations and a CMP is to be issued, the CMP shall be doubled up to the limits stated in (8) above. A CMP shall not be issued in lieu of disqualification for the third time or greater.
- (11) A WIC vendor committing fraud or abuse of the Program is subject to prosecution under applicable federal, State, or local laws.
- (12) Except for vendor name, address, and authorization status, the Department must restrict the use or disclosure of confidential vendor information to those entities listed in 7 CFR Part 246.26(e).

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-1-106.

1200-15-2-.09 NON-DISCRIMINATION.

- (1) The Program is governed by the following USDA non-discrimination statement for participation in the Program as either a participant or WIC vendor:
- (2) “The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (e.g., Braille, large print, audiotape) should contact USDA’S TARGET Center at (202) 720-2600 (voice and TDD).
- (3) To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.”

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-1-106.

1200-15-2-.10 APPEALS AND ADMINISTRATIVE REVIEWS.

- (1) Vendors may appeal any adverse actions taken by the Department, except as provided in paragraph (4)(a) of this section.
 - (a) The Department shall provide the vendor with written notice of the adverse action fifteen (15) calendar days prior to the effective date of the action. The written notice shall contain:
 1. (i) the adverse action being taken;
 - (ii) the cause(s) for the action;
 - (iii) effective date of the action;
 - (iv) procedures to file for a hearing or administrative review;
 - (v) time period allowed to request a hearing or administrative review; and
 - (vi) any other pertinent information.

- (b) The vendor's request for a review (either a hearing or an administrative review) in order to appeal the actions of the WIC Program must be received within fifteen (15) calendar days from the date of receipt of the notice.
- (2) Adverse actions subject to hearings shall be in accordance with the Uniform Administrative Procedures Act, T.C.A. §4-5-101, et seq.
- (a) The vendor will be provided an opportunity to request a hearing for the following reason(s):
 - 1. (i) denial of authorization: based on the vendor selection criteria for competitive price or for minimum variety and quantity of authorized supplemental foods or on a determination that the vendor is attempting to circumvent a sanction;
 - (ii) termination of an agreement for cause;
 - (iii) disqualification; or
 - (iv) imposition of a civil money penalty in lieu of disqualification.
 - (b) The Department shall make arrangements for a hearing before an administrative judge from the Administrative Procedures Division of the Office of the Secretary of State. The vendor shall also be given the following:
 - 1. (i) written notification of the adverse action, the procedures to follow to obtain a full administrative review, and the cause(s) for and the effective date of the action (When a vendor is disqualified due in whole or in part to violations in 1200-15-2-.08(6) Subparts (a)-(d), such notification must include the following statement: "This disqualification from WIC may result in disqualification as a retailer in the Food Stamp Program. Such disqualification is not subject to administrative or judicial review under the Food Stamp Program.");
 - (ii) the opportunity to appeal the adverse action within fifteen (15) calendar days of receipt of the notification of adverse action;
 - (iii) adequate advance notice of the time and place of the hearing to provide sufficient time to prepare for the hearing;
 - (iv) the opportunity to present its case and at least one opportunity to reschedule the hearing date upon specific request;
 - (v) the opportunity to cross-examine adverse witnesses (When necessary to protect the identity of WIC Program investigators, such examination may be conducted behind a protective screen or other device.);
 - (vi) the opportunity to be represented by counsel;
 - (vii) the opportunity to examine prior to the review the evidence upon which the Program's action is based;
 - (viii) an impartial decision-maker (administrative judge), whose determination is based solely on whether the Program has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program, according to the evidence presented at the hearing; and

- (ix) written notification of the review decision, including the basis for the decision, within ninety (90) days from the date of receipt of a vendor's request for a hearing. (These timeframes are only administrative requirements and do not provide a basis for overturning the Program's adverse action, if a decision is not made within the specified timeframe.)
- (3) Adverse actions subject to administrative review in accordance with 7 CFR 246.18(a)(1)(ii) are as follows.
- (a) The vendor will be provided an opportunity to request an administrative review for the following reason(s):
 - 1. (i) denial of authorization: based on the vendor selection criteria for business integrity or for a current Food Stamp Program disqualification or civil money penalty for hardship;
 - (ii) denial of authorization: based on a Program-established vendor selection criterion if the basis of the denial is a WIC vendor sanction or a Food Stamp Program withdrawal of authorization or disqualification;
 - (iii) termination of an agreement because of a change in ownership or location or cessation of operations;
 - (iv) disqualification based on a trafficking conviction;
 - (v) disqualification based on the imposition of a Food Stamp Program civil money penalty for hardship; or
 - (vi) disqualification or a civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC State Program.
 - (b) The Department shall conduct all administrative reviews pursuant to 7 CFR 246.18(c). The vendor shall also be given the following:
 - 1. (i) written notification of the adverse action, the procedures to follow to obtain an administrative review, the cause(s) for and the effective date of the action, and an opportunity to provide a written response;
 - (ii) a decision-maker, appointed by the Commissioner, who is someone other than the person who rendered the initial decision on the action and whose determination is based solely on whether the Program has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program, according to the information provided to the vendor concerning the cause(s) for the adverse action and the vendor's response; and
 - (iii) written notification of the review decision, including the basis for the decision, within ninety (90) days of the date of receipt of the request for an administrative review. (These timeframes are only administrative requirements and do not provide a basis for overturning the Program's adverse action if a decision is not made within the specified timeframe.)
- (4) Adverse actions not subject to administrative reviews.
- (a) The Department will not provide administrative reviews to vendors that appeal the following adverse actions:
 - 1. (i) the validity or appropriateness of the Program's vendor limiting or selection criteria;

- (ii) the validity or appropriateness of the Program's participant access criteria and the Program's participant access determinations;
 - (iii) the Program's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;
 - (iv) the expiration of the vendor's agreement;
 - (v) disputes regarding food instrument payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error); or
 - (vi) disqualification of a vendor as a result of disqualification from the Food Stamp Program.
- (5) Effective date of adverse actions against vendors.
- (a) The Department will make denials of authorization and permanent disqualification imposed for violations contained in 1200-15-2-.08(6)(a) of this Chapter effective on the date of receipt of the notice of adverse action.
 - (b) The Department will make all other adverse actions effective after fifteen (15) calendar days after the date of the notice of adverse action is received by the vendor, unless a request for a hearing or administrative review is received from the vendor within fifteen (15) calendar days.
 - (c) The Department will make the adverse action effective the date the vendor receives the final determination on actions which were subject to a hearing or administrative review.
 - (6) Continuing responsibilities. Appealing an adverse action does not relieve a vendor that is permitted to continue program operations while its' appeal is in process from the responsibility of continued compliance with the terms of the written agreement with the Program.
 - (7) The Department shall accept the decisions rendered under the hearing and administrative review as the final Program action. If the adverse action under review has not already taken effect, the Program will make the action effective on the date of receipt of the review decision by the vendor.
 - (8) Judicial review. If the review decision upholds the adverse action against the vendor, the Department will inform the vendor that it may be able to pursue judicial review of the decision in the Chancery Court for Davidson County, Tennessee.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-1-106.

REPEALS

Rule 1200-15-2 Special Supplemental Nutrition Program For Women, Infants and Children in their present form are repealed.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2001. (08-41)

**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 Sequoyah Room on the ground floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee 37247-0508 at 9:00 a.m. C.T. on the 17th day of October, 2001.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of Health 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 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 Fifth Avenue North, Nashville, Tennessee, Telephone 615-741-7586.

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

SUBSTANCE OF PROPOSED RULES

**STANDARDS FOR PEDIATRIC EMERGENCY CARE FACILITIES
CHAPTER 1200-8-30**

Rule 1200-8-30-.01 Definitions is amended by inserting the following new definitions (1), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (16), (17), (18), (19) and (21) in the appropriate alphabetical order and renumbering the definitions accordingly so that as amended the new rule shall read:

- (1) APLS. Advanced Pediatric Life Support.
- (4) E. Essential.
- (5) ED. Emergency Department.
- (6) EED. Essential in emergency department.
- (7) EED&EPI. Essential in emergency department and pediatric intensive care unit.
- (8) EH. Essential in hospital.
- (9) EMS. Emergency medical service.
- (10) EMSC. Emergency medical service for children.
- (11) ENPC. Emergency Nursing Pediatric Course.
- (12) EP. Promptly available.
- (13) EPI. Essential in pediatric intensive care unit only.

- (14) ES. Essential if service not provided at hospital.
- (16) PA. Physician's Assistant.
- (17) PALS. Pediatric Advanced Life Support.
- (19) PICU. Pediatric Intensive Care Unit.
- (20) SE. Strongly encouraged if such services are not available within a reasonable distance.

Rule 1200-8-30-.03(3) Administration is amended by deleting subparagraph (3) (k) in its entirety and substituting the following language so that as amended the rule shall read:

- (3) (k) Have a pediatric intensive care unit and emergency department (ED) in which the staff train health care professionals in basic aspects of pediatric emergency and critical care and serve as a focus for continuing education programs in pediatric emergency and critical care. In addition, staff workers in the pediatric intensive care unit and ED shall routinely attend or participate in regional and national meetings with course content pertinent to pediatric emergency and critical care.

Rule 1200-8-30-.03 Administration is amended by deleting subparagraph (3) (l) in its entirety and substituting the following language so that as amended the rule shall read:

- (3) (l) Assure training for pediatric intensive care unit and ED nurses in the following required skills: recognition, interpretation and recording of various physiological variables, drug administration, fluid administration, resuscitation (including cardiopulmonary resuscitation certification), respiratory care techniques (chest physiotherapy, endotracheal suctioning and management, tracheotomy care), preparation and maintenance of patient monitors, family-centered principles and psychosocial skills to meet the needs of both patient and family. PICU nurse-to-patient ratios vary with patient needs, but should range from 4 to 1 to 1 to 3.

Rule 1200-8-30-.05(1) Basic Functions is amended by deleting subparagraph (e) in its entirety and substituting instead the following language so as amended the rule shall read:

- (1) (e) A Comprehensive Regional Pediatric Center shall have 24 hours ED coverage by physicians who are board certified in pediatrics or emergency medicine, and preferably board certified, board admissible, or fellows (second year level or above) in pediatric emergency medicine. The medical director shall work with administration to assure highly skilled pediatric emergency physician coverage. All physicians in pediatric emergency medicine shall attend regional/national meetings in pediatric care and/or participate in at least four hours of continuing pediatric care education annually.

Rule 1200-8-30-.05(1) Basic Functions is amended by deleting subparagraph (g) in its entirety and substituting instead the following language so as amended the rule shall read:

- (1) (g) The pediatric intensive care unit and ED medical director shall participate in developing and reviewing their respective unit policies, promote policy implementation, participate in budget preparation, help coordinate staff education, maintain a databases which describe unit experience and performance, supervise resuscitation techniques, lead quality improvement activities and coordinate research.

Rule 1200-8-30-.05(2) Basic Functions is amended by deleting subparagraph (b) in its entirety and substituting instead the following language so as amended the new rule shall read:

- (2) (b) In Basic Pediatric Emergency Facilities at least one RN or physician's assistant shall be physically present 24 hours per day, 7 days per week, and capable of recognizing and managing shock and respiratory failure and stabilizing pediatric trauma patients, including early recognition and stabilization of problems that may lead to shock and respiratory failure. At least one emergency room registered nurse or physician's assistant per shift shall have successfully completed courses such as the Emergency Medical Services for Children/American Heart Association Pediatric Advanced Life Support (EMSC/PALS) course, or the Emergency Nurses Association Emergency Nursing Pediatric Course (ENPC) and can demonstrate this clinical capability. Documentation of current expiration date for the above courses shall be maintained by the facility and available upon request.

Rule 1200-8-30-.05(3) Basic Functions is amended by deleting subparagraph (b) in its entirety and substituting instead the following language so as amended the new rule shall read:

- (3) (b) Biomedical technicians shall be either in-house or available within 1 hour, 24 hours per day. Unit secretaries (clerks) shall be available to the pediatric intensive care unit and emergency department 24 hours per day. A radiology technician and pharmacist must be in-house 24 hours per day. In addition, social workers, physical therapists, occupational therapists and nutritionists must be available. The availability of child life specialists and clergy is strongly encouraged.

The following new paragraph is inserted as paragraph 4. following paragraph 3. under Table 1 (Parts 1-7) summary:

4. Resuscitative medications may be exempted if the hospital can demonstrate PALS recommendation changes, manufacturer recalls or shortages, or Food and Drug Administration requirement issues

Table 1. Part 3/7 2. Equipment and Supplies is amended by deleting "Medications-unit dose, prepackaged" and substituting instead "Amiodarone Medications-unit dose, prepackaged" and adding "EED&PI" in the CRPC column, SE in the General column, SE in the Primary column and SE in the Basic column, all listed under Facility Designation/Level. Add "xi Individual medications may be exempted if hospital can demonstrate PALS recommendation changes, manufacturer recalls or shortages, or federal agency requirement issues" at the end of Table 1. Part 3/7.

Table 1. Pediatric Emergency Care Facilities Part 5/7, Recovery Room is amended by inserting an E in the Facility Designation/Level, General column for the following: RNs and other essential personnel on call 24/hrs/day; Staff competent in the post-anesthesia care of the pediatric pt.; Airway equipment; Pressure monitoring capability; Thermal control equipment; Radiant warmer; Blood warmer and resuscitation cart.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-209 and 68-11-251.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of August, 2001. (08-43)

MASSAGE LICENSURE BOARD - 0870

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, and 63-18-211. 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 Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 25th day of October, 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 Flr., Cordell Hull Building, 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 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0870-1-.01, Definitions, is amended by deleting paragraph (1) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§4-5-202, 4-5-204, and 63-18-211.

Rule 0870-1-.04, Licensure and Provisional Licensure Process, is amended by deleting subparts (1) (f) 1. (i), (1) (f) 1. (ii), and (1) (f) 1. (iii) in their entirety, and substituting instead the following language, so that as amended, the new subparts (1) (f) 1. (i), (1) (f) 1. (ii), and (1) (f) 1. (iii) shall read:

- (1) (f) 1. (i) Two hundred (200) classroom hours of the five hundred (500) classroom hour requirement shall consist of sciences including, but not limited to, anatomy, physiology-Western and/or/Eastern, kinesiology, pathology, HIV/AIDS, and blood-borne pathogens, and hygiene (including standard precautions). Other sciences related to the human body may be included with Board approval.
- (1) (f) 1. (ii) Two hundred (200) classroom hours of the five hundred classroom (500) hour requirement shall consist of basic massage theory and practice including, but not limited to, history, benefits, indications, contraindications, demonstration and supervised practice, client assessment/evaluation, soft tissue manipulations including: gliding, kneading, friction, compression, vibration, percussion, stretching, joint movements, draping, positioning, turning, feedback, charting/documentation, proper body mechanics, and self-care.
- (1) (f) 1. (iii) One hundred (100) classroom hours of the five hundred (500) classroom hour requirement shall consist of related subjects including, but not limited to, business standards of practice, Tennessee massage statutes and regulations, ethics, communication skills, CPR/First Aid, the Americans with Disabilities Act, referral methods, specialized populations, and specialized and adjunct therapies/modalities (including hydrotherapy).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-18-204, 63-18-205, and 63-18-211.

Rule 870-1-.05, Establishment Licensure Process, is amended by deleting paragraphs (4) and (6) in their entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (7) and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs (4), (6), and (7) shall read:

- (4) Except for applicants who are corporations doing business in Tennessee, all applicants shall submit a certified copy of his birth certificate or its equivalent which indicates that the applicant is at the time of application, at least eighteen (18) years of age.
- (6) Except for applicants who are corporations doing business in Tennessee, all applicants shall have submitted, to the Board Administrative Office, evidence of good moral character. Such evidence shall consist of two (2) recent (within the preceding 12 months) original letters, attesting to the applicant's personal character and professional ethics on the signatory's letterhead.
- (7) Applicants who are corporations doing business in Tennessee shall submit a certified copy of their corporate charter and shall submit a statement identifying the corporation's registered agent for service of process.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-18-204, and 63-18-211.

Rule 0870-1-.06, Fees, is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph (3) shall read:

- (3) 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 Massage Licensure Board.
 - (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, and 63-18-211.

Rule 0870-1-.09, Licensure Renewal, is amended by deleting subparagraphs (1) (b) in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (1) (c) but not its parts, in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (1) (e), and paragraphs (2) and (4) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (b), the new subparagraph (1) (c) but not its parts, the new subparagraph (1) (e), and the new paragraphs (2) and (4) shall read:

- (1) (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

- (1) (c) To be eligible for renewal a licensee must submit to the Division, on or before the expiration date, all of the following:
 - (1) (e) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of an Expired License - Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:
 - (a) At the discretion of the Board, either appear before it or submit a notarized statement setting forth the cause for failure to renew; and
 - (b) Payment of all past due renewal and the late renewal fees; and
 - (c) Submission of proof of compliance with continuing education requirements of rule 0870-1-.12.
- (4) No application for renewal of an establishment license or reinstatement of an expired establishment license shall be considered unless the establishment has passed its most recent inspection.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-18-206, and 63-18-211.

Rule 0870-1-.09, Licensure Renewal, is amended by deleting subparagraphs (1) (d) and (1) (g) in their entirety and renumbering the remaining subparagraphs accordingly.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-18-206, and 63-18-211.

Rule 0870-1-.12, Continuing Education, is amended by deleting paragraph (6) but not all its subparagraphs, and substituting instead the following language, and is further amended by deleting subparagraphs (6) (a) and (6) (c) in their entirety and substituting instead the following language, so that as amended, the new paragraph (6) but not all its subparagraphs, and the new subparagraphs (6) (a) and (6) (c) shall read:

- (6) Continuing Education for Reactivation of Retired, Expired, or Revoked Licensure.
 - (6) (a) Any massage therapist who applies for reactivation or reinstatement of a license which has been retired, or has expired, or has been revoked for failure to complete continuing education requirements for over two (2) years must submit along with the reactivation request, proof which indicates the attendance and completion of twenty (20) hours of Board approved massage therapy related continuing education. The continuing education must have been earned in the twelve (12) months preceding application for reactivation or reinstatement.
 - (6) (c) The Board may grant a waiver of the continuing education requirements for reactivation of a retired, expired, or revoked license as provided in paragraph (5) of this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-18-206, and 63-18-211.

Rule 0870-1-.13, Disciplinary Grounds, Actions, and Civil Penalties, is amended by deleting subparagraph (1) (e) but not all its parts in its entirety, and is further amended by deleting part (1) (e) 1. in its entirety, and is further amended by renumbering part (1) (e) 2. as subparagraph (1) (e).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-18-206, and 63-18-211.

Rule 0870-1-.15, Change of Name and/or Address, is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph (3) shall read:

- (3) Change of Establishment Name and/or Address - A licensed massage establishment shall notify the Board in writing each time the establishment's name and/or address changes no later than thirty (30) days after such change is effective. Such notification shall include the establishment's license number, old and new names, old and new addresses, and the replacement license fee, pursuant to rule 0870-1-.06 (1) (f) and 0870-1-.06 (2) (g).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-1-108, and 63-18-211.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of August, 2001. (08-33)

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS - 1020

There will be a hearing before the Tennessee Board of Examiners for Nursing Home Administrators to consider the promulgation of amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, and 63-16-103. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 9th day of November, 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 1020-1-.01, Definitions, is amended by deleting paragraph (4) in its entirety and renumbering the remaining paragraphs accordingly.

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

Rule 1020-1-.02, Fees, is amended by deleting subparagraph (1) (d) and paragraph (2) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (d) and paragraph (2) shall read:

- (1) (d) Late Renewal Fee. A non-refundable fee to be paid to reinstate an expired license. \$200.00
- (2) 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 Board of Examiners for Nursing Home Administrators.
 - (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, 63-1-107, 63-16-103, and 63-16-107.

Rule 1020-1-.11, Licensure Renewal, is amended by deleting the introductory language in its entirety and substituting instead the following language, and is further amended by deleting paragraphs (1), (3), (4), and (6) in their entirety, and substituting instead the following language, so that as amended, the new introductory language and the new paragraphs (1), (3), (4), and (6) shall read:

1020-1-.11 LICENSURE RENEWAL. All persons licensed by the Board must renew their licenses to be allowed to lawfully continue in practice. The due date for renewal is the last day of the month in which a licensee's birthdate falls, pursuant to the Division's biennial birthdate renewal system, shown as the expiration date on renewal certificates.

- (1) Methods of Renewal
 - (a) Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - (b) Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (3) Licensees or certificate holders who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses or certificates processed pursuant to rule 1200-10-1-.10.
- (4) Reinstatement of an Expired License. Reinstatement of a license or a certificate that has expired may be accomplished upon meeting the following conditions:
 - (a) At the discretion of the Board, either appear before it or submit a notarized statement setting forth the cause for failure to renew; and
 - (b) Payment of all past due Renewal Fees and State Regulatory Fees; and
 - (c) Payment of the Late Renewal Fee provided in rule 1020-1-02 (1) (d); and
 - (d) Compliance with the continuing education requirements of rule 1020-1-.12; and

- (e) If expiration was a result of failure to comply with T.C.A. § 63-16-107(e) and rule 1020-1-.14, submit documentation of successful completion of the conditions imposed by the Board as a result of any disciplinary action or settlement pursuant to rule 1020-1-.14 or rule 1020-1-.15.
- (6) Any licensee who fails to renew licensure prior to the expiration of the second (2nd) year after which renewal is due must, in addition to completing the requirements of paragraph (4) of this rule, reapply for, take and pass the nursing home administration examinations pursuant to rules 1020-1-.05 and 1020-1-.10. If continuously and actively practicing in another state as a licensed nursing home administrator, reactivation may be accomplished upon meeting the following conditions:
 - (a) Compliance with paragraph (2) of rule 1020-1-.08; and
 - (b) Compliance with paragraph (4) of this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-16-103, 63-16-107, 63-16-108, and 63-16-109.

Rule 1020-1-.11, Licensure Renewal, is amended by deleting paragraph (5) in its entirety and renumbering the remaining paragraphs accordingly.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2001. (08-40)

BOARD OF OPTOMETRY - 1045

There will be a hearing before the Tennessee Board of Optometry to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-8-112. 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 Johnson Room of the Cordell Hull Building located at 425 5th Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 31st day of October, 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 Fl, Cordell Hull Building, 425 5th Ave. 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 1045-2-.02, Licensure Process, is amended by deleting paragraphs (1) and (4) in their entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (9), so that as amended, the new paragraphs (1), (4), and (9) shall read:

- (1) An applicant must obtain from the Board administrative office an application form that must be completed and submitted along with all required documentation and fees to the Board administrative office.
- (4) An applicant shall submit to the Board administrative office a recent “passport style” photograph of himself/herself.
- (9) Licensure issuance decisions pursuant to this rule may be preliminarily made upon review by any Board member or a Board designee, as provided in T.C.A. § 63-1-142.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-142, 63-8-112, and 63-8-115.

Rule 1045-2-.04, Licensure Renewal is amended by adding the following language as new subparagraphs (1) (a) and (1) (b), and is further amended by deleting subparagraph (2) (c) in its entirety and renumbering the remaining subparagraph accordingly, and is further amended by deleting paragraphs (3), (4), (5) and (6), and subparagraph (7) (a) in their entirety and substituting instead the following language, and is further amended by deleting paragraph (8) in its entirety, so that as amended, the new subparagraphs (1) (a) and (1) (b), the new paragraphs (3), (4), (5) and (6), and the new subparagraph (7) (a) shall read:

- (1) (a) Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org

- (1) (b) Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (3) The Board, in cases of documented illness, disability, other undue hardship or retirement, may
 - (a) waive the continuing education requirements; and/or
 - (b) waive the renewal fee (but not the state regulatory fee); or
 - (c) extend the deadline to complete continuing education requirements.
 - (d) To be considered for a waiver of continuing education requirements, or for an extension of the deadline to complete the continuing education requirements, an optometrist must request such in writing with

supporting documentation before the end of the calendar year in which the continuing education requirements were not met.

- (e) To be considered for a waiver of the renewal fee, an optometrist must request such in writing with supporting documentation on or before the renewal due date.
- (4) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10, unless a waiver or deadline extension is granted pursuant to paragraph (3) of this rule.
- (5) Reinstatement of an Expired License - Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:
 - (a) Payment of all past due renewal fees and state regulatory fees, pursuant to Rule 1045-2-.01; and
 - (b) Payment of the Reinstatement fee, pursuant to Rule 1045-2-.01; and
 - (c) Provide documentation of successfully completing continuing education requirements for every year the license was expired, pursuant to Rule 1045-2-.05.
- (6) License renewal and reinstatement applications hereunder shall be treated as license applications, and review and decisions shall be governed by Rule 1045-2-.02.
- (7) (a) Licensees who wish to retain their licenses but not actively practice may avoid compliance with the licensure renewal process by:

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-8-112, 63-8-119 and 63-8-120.

Rule 1045-2-.05, Continuing Education, is amended by deleting part (2) (e) 4. in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (4) and (5), so that as amended, the new part (2) (e) 4. and the new paragraphs (4) and (5) shall read:

- (2) (e) 4. Waiver of continuing education requirements or extension of the deadline to complete such requirements may be made by the Board on an individual basis as provided in Rule 1045-2-.04 (3).
- (4) Continuing education course approval decisions pursuant to this rule may be preliminarily made upon review by any Board member or a Board designee.
- (5) Violations
 - (a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.
 - (b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
 - (c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.

- (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (5) (b) above may be subject to disciplinary action.
- (e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-8-112, 63-8-119, and 63-8-120.

Rule 1045-2-.06, Board Meetings, Members' Authority and Records, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (3) Any member of the Board or a Board designee is vested with the authority to review and preliminarily approve licensure applications and continuing education courses. All such approvals shall be subsequently submitted to the full Board for its consideration for ratification.

Authority: §§4-5-202, 4-5-204, 63-1-142, 63-8-112, 63-8-115, and 63-8-119.

The notice of rulemaking set out herein was properly filed in the Department of State on the 7th day of August, 2001. (08-05)

TENNESSEE REAL ESTATE COMMISSION - 1260

There will be a hearing before the Tennessee Real Estate Commission to consider the promulgation of rules and amendments to rules pursuant to T.C.A., §62-13-203. 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 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at 9:00 A.M. (CST), the 7th day of November, 2001.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to request any services needed to facilitate such participation. Such inquiry should be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to determine how the Department can provide such aid or service. Initial contact may be made with Verna Norris, ADA Coordinator, Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tennessee 37243 (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: Bruce Lynn, Executive Director, Tennessee Real Estate Commission, 500 James Robertson Parkway, Nashville, Tennessee 37243 (615)741-2273.

SUBSTANCE OF PROPOSED RULES**CHAPTER 1260-2
RULES OF CONDUCT****AMENDMENTS**

Rule 1260-2-.03 Offices is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that as amended the rule shall read:

- (1) Signs. Every licensed broker shall conspicuously display on the outside of his designated place of business a sign which contains the name of the real estate firm as registered with the Commission.
- (2) Zoning. Any application for a license or change of location shall be accompanied by a written certification (from the proper governmental authority) of compliance with zoning laws and ordinances.
- (3) Branch Offices.
 - (a) For purposes of T.C.A. §62-13-309(d), a licensee is deemed to maintain a “branch office” if the licensee:
 1. Advertises the office in any manner for the purpose of attracting the public;
 2. Has a mail drop at the office which is registered with and served by the United States Postal Service; or
 3. Invites or solicits telephone calls to the office (by such means as advertising or listing in a telephone directory).
 - (b) Model Homes. A model home may be utilized in a subdivision for purposes of soliciting business and will not be required to be licensed as a branch office as long as that model home meets the following requirements:
 1. The model home location and/or telephone number is only advertised in conjunction with advertising the main firm office and such advertising complies with the statutes, rules and regulations of the Commission;
 2. The model home may not have a mail drop;
 3. The model home may not be the sole sales office for the firm;
 4. The model home may not be utilized to allow unlicensed activity by individuals in performing any of the acts requiring licensure under T.C.A. §62-13-101, et seq.; and
 5. All brokers shall adequately supervise affiliates operating from model homes as required by T.C.A. §62-13-312 and any rules promulgated thereunder.
 - (c) Modular Units. Licensed real estate firms may allow licensees to temporarily operate out of modular units in subdivisions which are under construction subject to the requirements for utilization of model homes set forth in subparagraph (b) above and the following additional requirements:
 1. Licensees operating from modular units are limited to marketing properties located in the subdivision where the modular unit is located;

2. The modular unit shall comply with all state, county and local laws relative to land use and shall also comply with the covenants and restrictions of the subdivision in which it is located; and
3. The modular unit may only be utilized for up to six (6) months. After six (6) months, the modular unit shall be properly licensed as a branch office or such licensees shall operate out of a model home in accordance with subparagraph (b) above.

Authority: T.C.A. §§62-13-203, 62-13-309 and 62-13-312.

Rule 1260-2-.09 Deposits and Earnest Money is amended by deleting the text of the rule in its entirety and by substituting instead the following new language so that as amended the rule shall read:

- (1) Each broker shall maintain a separate escrow account for the purpose of holding any funds which may be received in his fiduciary capacity as deposits, earnest money, or the like.
- (2) An affiliate broker shall pay over to the broker with whom he is under contract all deposits and earnest money immediately upon receipt.
- (3) Brokers are responsible at all times for deposits and earnest money accepted by them or their affiliate brokers.
- (4) Where a contract authorizes a broker to place funds in an escrow or trustee account, the broker shall clearly specify in the contract:
 - (a) the terms and conditions for disbursement of such funds; and
 - (b) the name of the person or entity who will actually hold such funds.
- (5) A broker may properly disburse funds from an escrow or trustee account:
 - (a) upon a reasonable interpretation of the contract which authorizes him to hold such funds;
 - (b) upon securing a written agreement which is signed by all parties having an interest in such funds, and is separate from the contract which authorizes him to hold such funds;
 - (c) at the closing of the transaction;
 - (d) upon the rejection of an offer to purchase, sell, rent, lease, exchange, or option real estate;
 - (e) upon the withdrawal of an offer not yet accepted to purchase, sell, rent, lease, exchange or option real estate;
 - (f) upon filing an interpleader action in a court of competent jurisdiction; or
 - (g) upon the order of a court of competent jurisdiction.
- (6) Funds in escrow or trustee accounts shall be disbursed or interpled in a proper manner without unreasonable delay and not longer than thirty (30) days after receipt of a written demand from any party to the transaction. A broker may continue to hold such funds beyond thirty days only if the broker obtains an agreement signed by all parties to the transaction permitting the broker to continue to hold such funds in escrow and such agreement:

- (a) Clearly provides that the broker may interplead the funds at any time regardless of any other term contained in the agreement; and
 - (b) Contains a definite termination date upon which the broker shall disburse or interplead the funds.
- (7) No postdated check shall be accepted for payment of a deposit or earnest money, unless otherwise provided in the offer.
- (8) Earnest money shall be deposited into an escrow or trustee account promptly upon acceptance of the offer, unless the offer contains a statement such as “Earnest money to be deposited by . . .” to indicate how such funds will be handled pending closing of the contract.
- (9) Interest bearing escrow accounts are neither required nor prohibited. If used, however, the following guidelines shall be observed:
- (a) The licensee shall disclose to the payor that his funds will be placed in an interest bearing escrow account;
 - (b) As a depositor of the funds, the licensee does not own the funds or any interest earned thereon until properly disbursed to the licensee;
 - (c) The licensee and payor shall execute a written agreement indicating the manner of disposition of interest earned; and
 - (d) The licensee shall keep a detailed and accurate accounting of the precise sum of the interest earned for each separate deposit.

Authority: T.C.A. §§62-13-203, 62-13-208, and 62-13-321.

Rule 1260-2-.11 Personal Interest is amended by adding a new paragraph (3) which shall read as follows:

- (3) (a) In any transaction where a licensee provides real estate services and where the licensee proposes to recommend or refer any party to the transaction to a service or product provider in which the licensee, the licensee’s principal broker, or the licensee’s firm has a personal interest or from which the licensee, the licensee’s principal broker, or the licensee’s firm may receive any direct or indirect fee or other benefit, the licensee shall furnish to the party a written disclosure which:
1. Identifies the service/product provider;
 2. Discloses the nature of the licensee’s interest in such provider;
 3. Explains benefit(s) the licensee may receive, including specific monetary amounts or a good faith estimate thereof where applicable; and
 4. Advises that the party is not obligated to act upon the referral or recommendation, but may secure the services or products from any other source.
- (b) The licensee shall obtain a signed acknowledgement of such disclosure from the party being referred.
- (c) A licensee may not institute or participate in a plan or agreement which penalizes or operates to the

detriment of a party for such party's failure to follow the licensee's recommendations or referrals to a service or product provider.

- (d) The disclosure required herein may be included in the listing or agency contract or in a separate document.
- (e) The disclosure required herein does not apply to lawful payments of portions of a real estate sales commission to another real estate agent or firm.

Authority: T.C.A. §§62-13-203 and 62-13-403.

Rule 1260-2-.12 Advertising is amended by deleting the text of paragraph (2) in its entirety and substituting instead the following new language so as amended paragraph (2) shall read:

(2) General Principles

- (a) No licensee shall advertise to sell, purchase, exchange, rent, or lease property in a manner indicating that the advertiser is not engaged in the real estate business.
- (b) No advertisement by a licensee shall direct responses to only a post office box number, telephone number, and/or street address.
- (c) Every licensee shall affirmatively and unmistakably indicate in any advertising that he is a licensed real estate agent.
- (d) All licensees shall advertise under the firm name offers to purchase, sell, rent, or lease any property. All advertising shall be under the direct supervision of the principal broker and shall list the firm name and telephone number. The firm telephone number shall be the telephone number which is on file for the firm with the Commission and shall be under the control of the principal broker.
- (e) No licensee shall post a sign on any property advertising that property for sale unless the licensee has the owner's written authorization.
- (f) All licensees shall advertise using the same name under which they are registered with the Commission.
- (g) An individual licensee's name shall not appear in larger type than the firm name. No information required to be contained in an advertisement under this rule may appear in type which is smaller than any telephone number printed in the advertisement.
- (h) Internet Advertising
 1. Any references to "advertising," "advertisements" or any similar language contained in any Tennessee statute administered by the Commission or any rule promulgated by the Commission shall apply to any and all forms of advertising including the Internet.
 2. Where an individual licensee's name appears in an internet advertisement, the advertisement shall also contain that agent's TREC license number which shall appear as "TN Lic. No. . . ."

3. An individual or firm advertising on the Internet in such a manner as to lead a reasonable person to believe that such individual or firm is performing any act within the state of Tennessee requiring licensure under T.C.A., Title 62, Chapter 13, then that individual or firm shall be properly licensed.
4. Where a website provides information on listings, some of which may not belong to the owner of the website, and does so other than via a link to another website, the following requirements shall be met:
 - (i) The owner of the website's firm name and telephone number shall appear on each page of the website, including pages referenced in paragraph iii. below.
 - (ii) For web pages displaying "thumbnails" of multiple listings, a disclaimer shall be displayed indicating that some or all of these listings may not belong to the firm whose website is being visited. A "thumbnail" shall refer to a summary of a listing containing no more than five selection criteria describing the property. If any information regarding the listing firm/agent is given in the "thumbnail," however, the listing firm's name and telephone number shall also be displayed.
 - (iii) For web pages displaying a listing containing greater than five selection criteria describing the property, the listing firm's name and telephone number shall be displayed and clearly identified as such.

Authority: T.C.A. §§62-13-203 and 62-13-308.

Rule 1260-2-.32 Civil Penalties is amended by deleting the text of the rule in its entirety and substituting instead the following new language so that as amended the rule shall read:

- (1) The Commission may, in a lawful proceeding respecting any individual or entity required to be licensed, registered or certified or who is otherwise subject to regulation by the Commission, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty for each separate violation of a statute, rule, or order pertaining to such individual/entity. The amount of any such civil penalty assessed shall be a minimum of fifty dollars (\$50.00) and shall not exceed one thousand dollars (\$1000.00) per violation per day that the violation exists.
- (2) Each day of a continued violation may constitute a separate violation.
- (3) In determining the amount of a civil penalty the Commission may consider factors including but not limited to the following:
 - (a) whether the amount imposed will be a substantial economic deterrent to the violation;
 - (b) the circumstances leading to the violation;
 - (c) the severity of the violation and the risk of harm to the public;
 - (d) the economic benefits gained by the violator as a result of non-compliance; and
 - (e) the interest of the public.

Authority: T.C.A. §§56-1-308 and 62-13-203.

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| 1260-2-.38 Limitations of Liability | 1260-2-.41 Unlicensed Employees |

1260-2-.36 DUTIES OF PRINCIPAL BROKERS.

- (1) General. A broker who is the principal broker of a firm shall be responsible for supervision of all licensees affiliated with such firm and shall be responsible for management of the firm.
- (2) Training of Affiliates. The principal broker of a firm shall be responsible for ensuring the training of any affiliate brokers for whom such firm is their first affiliation as a licensee. Such training shall occur within the first ninety (90) days of affiliation with such firm and shall comply with the following requirements:
 - (a) Training shall consist of a minimum of ten hours and shall include the following topics:
 1. Contract Writing.
 2. Office Policies.
 3. Agency and Disclosure Requirements.
 4. Fair Housing.
 5. Antitrust as Applied to Commission Fixing.
 6. Real Estate Law.
 7. Listings.
 8. Advertising Requirements.
 9. Earnest Money and Escrow Accounts.
 10. Property Disclosures.
 11. Ethics and Client Relationships.
 - (b) Such training shall be in addition to any continuing or post licensing education which may be required.
 - (c) The principal broker may delegate the actual training of new affiliates to any affiliated licensee, however, the principal broker remains responsible for ensuring that such training is completed.
 - (d) The Commission shall prescribe a training form which shall be completed and signed by the principal broker, any delegated trainer and the affiliate being trained. The completed and signed form shall be returned to the Commission within thirty days from the date the new affiliate's license is placed with the firm. A copy of the form shall also be retained in the firm files for at least three years.

- (3) **Monitoring of Affiliated Licensees.** The principal broker of a firm shall be responsible for monitoring the real estate activities of all licensees affiliated with such firm, including but not limited to the following:
 - (a) Review of sales contracts and listings;
 - (b) Records retention;
 - (c) Advertising and web pages;
 - (d) License status;
 - (e) Proper handling of earnest money; and
 - (f) Ensuring prompt response to disciplinary matters.
- (4) **Firm Management.** The principal broker of a firm shall be responsible for the management of such firm including but not limited to the following:
 - (a) License renewal for the firm, the principal broker and all affiliated licensees to whom commissions are paid;
 - (b) Filing of appropriate forms regarding firm status;
 - (c) Closing of a firm which is no longer operating or licensed;
 - (d) Preparation and dissemination of office policies;
 - (e) Management of firm escrow account; and
 - (f) Record retention.

Authority: T.C.A. §§62-13-203 and 62-13-309.

1260-2-.37 RECORDS RETENTION.

- (1) A real estate firm shall retain records relating to a real estate transaction for at least three years following consummation of the transaction. Such records shall be stored at or immediately accessible from the firm's office. Documents which shall be retained include at a minimum:
 - (a) Listings and Listing Agreements;
 - (b) Offers;
 - (c) Contracts;
 - (d) Closing Statements;
 - (e) Agency Agreements;
 - (f) Agency Disclosure Documents;

- (g) Property Disclosure Forms or notation regarding why such forms were not required;
 - (h) Correspondence; and
 - (i) Any other documents relative to the transaction.
- (2) A licensee may utilize electronic or computerized data storage subject to the following conditions:
- (a) A daily back up of all electronically stored data is performed;
 - (b) Failure of the computer, electronic system, disks, etc. shall not excuse the licensee from compliance with the requirements of T.C.A. §62-13-312(b)(6) or this rule;
 - (c) In the event of an audit by Commission staff, the licensee shall provide a station/terminal for the Commission's auditor to review electronically stored records and shall provide technical assistance to the auditor if requested; and
 - (d) All data shall be stored at or immediately accessible from the firm's office.

Authority: T.C.A. §§62-13-203 and 62-13-312.

1260-2-.38 LIMITATIONS OF LIABILITY. It shall be improper conduct for a licensee to enter into or request or require a party represented by said licensee to enter into any agreement which attempts to waive the licensee's liability for the performance of the licensee's agency duties as defined by state law, the rules and regulations of the Tennessee Real Estate Commission and/or the terms of any agency contract entered into by the licensee and such party. A licensee may disclaim liability as to advice in fields clearly outside the licensee's knowledge and duties as a licensee, such as tax or legal advice, and advice as to matters for which the represented party has secured a separate opinion from a qualified expert. This rule should in no way be interpreted to authorize licensee to provide advice in fields which are outside the licensee's knowledge or expertise.

Authority: T.C.A. §§62-13-203, 62-13-312, 62-13-403, and 62-13-404.

1260-2-.39 COMPARATIVE MARKET ANALYSIS AND BROKER OPINIONS. Where a licensee provides a comparative market analysis or a broker opinion the licensee shall comply with the following requirements:

- (1) Any fees charged for the analysis or opinion shall be paid through the licensee's principal broker; and
- (2) Pursuant to T.C.A. §62-39-104(a), the analysis or opinion shall clearly indicate that it is not an appraisal and that the licensee is not rendering an opinion as to the value of the real estate or real property in question.

Authority: T.C.A. §§62-13-203.

1260-2-.40 LICENSEE POCKET CARDS. Individual licensees shall carry their Tennessee License Pocket Card with them at all times during which they are engaged in activities requiring licensure under the Tennessee Real Estate Broker License Act of 1973 or the Tennessee Timeshare Act of 1981 and during attendance at any continuing or post licensure education.

Authority: T.C.A. §§62-13-203.

1260-2-.41 UNLICENSED EMPLOYEES. Utilization of unlicensed employees or independent contractors by a licensee shall be subject to the following guidelines:

- (1) Unlicensed individuals who are employed by or under the direction of a licensee may:
 - (a) Answer phones, forward calls and give information contained only on the listing agreement as limited by the broker;
 - (b) Fill out and submit listings and changes to any multiple listing service subject to the licensee's instructions;
 - (c) Follow up on loan commitments after a contract has been executed and generally secure status reports on the loan progress;
 - (d) Assemble documents for closing;
 - (e) Secure public information from courthouses, utility districts, etc.;
 - (f) Have keys made for company listings;
 - (g) Write ads for approval of licensee and supervising broker and place classified advertising;
 - (h) Receive, record and deposit earnest money, security deposits and advance rents under the direct supervision of the principal broker;
 - (i) Type contract forms for approval by licensee and supervising broker;
 - (j) Monitor licenses and personnel files;
 - (k) Compute commission checks;
 - (l) Place signs on property;
 - (m) Request repairs to listed/managed property as directed by the licensee;
 - (n) Prepare fliers and promotional information for approval by licensee and supervising broker;
 - (o) Deliver documents and pick-up keys;
 - (p) Place routine telephone calls on late rent payments;
 - (q) Schedule appointments for licensee to show listed property;
 - (r) Gather information for a comparative market analysis (CMA);
 - (s) Distribute objective, written information on a listing or rental;
 - (t) Give a key to a prospect or unlock property upon instruction from licensee; or
 - (u) Disclose the current sales status of a listed property.

- (2) Such unlicensed individuals may not:
 - (a) Make unsolicited contact by telephone or in person with potential sellers or purchasers;
 - (b) Show properties for sale and/or lease to prospective purchasers;
 - (c) Participate in any open house, home show booth or fair without the direct supervision of a licensee;
 - (d) Answer questions concerning properties listed with the firm except only to provide information contained on the listing agreement as limited by the broker;
 - (e) Prepare promotional material or advertising of properties for sale or lease without the approval of the supervising broker;
 - (f) Discuss or explain listings, offers, contracts, or other similar matters with persons outside the firm;
 - (g) Be paid on any basis related to a particular real estate transaction or activity, such as percentage of commission, or be paid any amount based on number or dollar value of listings, sales, etc.;
 - (h) Participate in any manner in the negotiation of an offer or contract, including acting as a “go-between” for the parties;
 - (i) Negotiate or agree to any commission split or referral fee on behalf of a licensee.
- (3) Licensees shall be responsible for any real estate activities performed by unlicensed individuals in the licensee’s employ or under the licensee’s direction.
- (4) The preceding paragraphs (1) and (2) shall not be deemed to be exclusive listings of all activities permitted or prohibited for unlicensed individuals. The Commission may, in its discretion, determine that additional activities, if performed by an unlicensed individual, would violate the Tennessee Real Estate Broker License Act of 1973 and therefore, are prohibited.

Authority: T.C.A. §§62-13-203 and 62-13-301.

CHAPTER 1260-5 EDUCATIONAL REQUIREMENTS

AMENDMENTS

1260-5-.01 Purpose is amended by deleting the text of the rule in its entirety and replacing it with the following language so that as amended the rule shall read:

1260-5-.01 PURPOSE. The Tennessee Real Estate Broker License Act of 1973 (as amended) requires satisfactory completion of certain courses in real estate by applicants for, and holders of, licenses as a broker or affiliate broker. This chapter establishes standards and procedures governing the establishment and operation of courses, programs, and schools which are designed to satisfy such educational requirements. This chapter further establishes guidelines and requirements to be fulfilled by licensees in obtaining required education.

Authority: T.C.A. §§62-13-106 and 62-13-203.

1260-5-.03 Requirements for Courses is amended by deleting the text of subparagraph (1)(a) and replacing it with a new subparagraph (1)(a) which shall read as follows:

- (1) (a) cover subjects which are reasonably related to the practice of real estate and suitably advanced to benefit and enrich the students enrolled;

Authority: T.C.A. §§62-13-106 , 62-13-203 and 62-13-303.

1260-5-.07 Records is amended by deleting the text of paragraph (3) in its entirety and replacing it with a new paragraph (3) which shall read as follows:

- (1) Each sponsor of any Commission approved continuing education course for affiliate brokers, or post licensing course for brokers, shall submit to the Commission, within ten (10) working days of the completion of the course, a roster of all students who successfully complete each course. The roster shall include the name, social security number (where provided by the student) and file identification number of each student. This information shall be provided on a roster format approved by the Commission.

Authority: T.C.A. §§62-13-106 , 62-13-203 and 62-13-303.

1260-5-.11 Correspondence Courses is amended by deleting the text of the rule in its entirety and replacing it with the following language so that as amended the rule shall read as follows:

- (1) The term “distance education” shall be used interchangeably with the term “correspondence courses” and shall include all education in which instruction does not take place in a traditional classroom setting but rather through other media where the teacher and student are separated by distance and/or by time. Distance education courses approved by the Commission shall be completed within one (1) year of the date of enrollment in order for continuing education to be granted to the licensee. Distance education may include, but is not necessarily limited to the following categories of learning materials and/or transmission modes:
 - (a) Printed Material. A distance education course using printed materials may be approved by the Commission if:
 1. students will be provided a manual or other printed materials;
 2. a comprehensive course outline, requirements for successful completion of the course and information regarding availability of faculty to students are provided;
 3. it contains at least six (6) written exercises which are to be submitted periodically to the instructor, graded and returned to the student; and
 4. if the class provides more than eight (8) hours of credit, a comprehensive final examination or equivalent measure of achievement is executed prior to the sponsor submitting the roster to the Commission indicating successful completion of the course for any and all students.

- (b) Computer Based/Disk/Online Material. A distance education course using these materials and/or formats may be submitted to the Commission for analysis and possible approval if the course is certified by ARELLO as to technology, support of the technology, interactivity and course design.
1. The Commission will review these ARELLO certified courses to determine whether the curriculum will meet Commission education requirements.
 2. Any course which would provide more than eight (8) hours of continuing education shall include a final examination which shall be executed prior to submission to the Commission for education credit.
 3. Approval of a course under this paragraph will be automatically withdrawn should ARELLO certification be discontinued for any reason.

Authority: T.C.A. §§62-13-106 , 62-13-203 and 62-13-303.

1260-5-.12 Affiliate Brokers is amended by deleting subparagraph (3)(a) in its entirety and renumbering the remaining subparagraphs accordingly so that as amended paragraph (3) shall read as follows:

- (3) (a) An affiliate broker whose current license was issued on or after July 1, 1980 will not be eligible for renewal of the license for 1991-92 or thereafter unless, during the immediately preceding two-year license period, such affiliate broker satisfactorily completes at least sixteen (16) classroom hours of continuing real estate education. However, this subparagraph shall not apply to an affiliate broker whose license:
 1. was originally issued during the immediately preceding two-year license period; or
 2. was temporarily retired in accordance with T.C.A. §62-13-318 for the entire immediately preceding two-year license period.
- (b) An affiliate broker will not receive continuing education credit for classroom hours completed prior to licensure or during a prior license period.

Authority: T.C.A. §§62-13-106 , 62-13-203 and 62-13-303.

1260-5-.14 Repetition of Course Content is amended by deleting the text of the rule in its entirety and replacing it with the following language so that as amended the rule shall read:

1260-5-.14 REPETITION OF COURSE CONTENT. Effective January 1, 2003, credit for completion of real estate education required under T.C.A. §62-13-303 will not be awarded for any course for which the licensee has been previously received credit.

Authority: T.C.A. §§62-13-203 and 62-13-303.

1260-5-.16 Course Approval Periods is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that as amended the rule shall read as follows:

- (1) Effective January 1, 1993, each course approval shall remain effective for four (4) years or such other period of time as the Commission may deem appropriate. After four (4) years or such other period of time as the Commission may determine, the approval of the Commission shall expire unless the Commission, after reviewing a new course application, approves the course for an additional time period.

- (2) Effective January 1, 1993, the Commission will approve courses based upon a four (4) year review cycle. Each cycle will end on December 31st of the fourth year. The first four (4) year period of approval will end December 31, 1996.
- (3) All course providers shall be required to resubmit their courses for approval at least one hundred twenty (120) days prior to the applicable expiration date. Failure to meet this deadline may result in the non-approval of a course.
- (4) The Commission reserves the right to issue approvals for periods of less than four (4) years.

Authority: T.C.A. §§62-13-106 , 62-13-203 and 62-13-303.

REPEALS

1260-5-.11 Correspondence Courses is repealed.

Authority: T.C.A. §§62-13-106 , 62-13-203 and 62-13-303.

**CHAPTER 1260-6
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1260-6-.15 CONDUCT. It shall be improper dealing within the meaning of T.C.A. §66-32-121(f) for a developer or sales agent to retain the services of an individual or entity required to be registered with or licensed by the Commission where such individual or entity is not properly registered or licensed.

Authority: T.C.A. §§66-32-121.

**CHAPTER 1260-7
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1260-7-.01 LICENSING.

- (1) Applications for licenses shall include the physical location of the firm's office in Tennessee. A mail drop or post office box address is insufficient to satisfy this requirement. If the firm's mailing address is different than its physical address, the application shall include the mailing address in addition to the physical address.
- (2) Applications for licenses shall state the full legal name of the individual or entity seeking licensure. If the firm will be operating under a d/b/a or assumed name, the application shall include this information.
- (3) Firm licenses shall not be transferable or assignable.
- (4) Any change in information provided to the Commission shall be transmitted to the Commission offices within ten (10) days of such change. For business entities, this includes any change in principals or any change in ownership interests of greater than ten percent (10%).

Authority: T.C.A. §§62-13-203 and 62-13-104.

1260-7-.02 ESCROW/TRUST ACCOUNTS .

- (1) Escrow/trust accounts shall be established and held in a federally insured and properly licensed financial institution within the state of Tennessee.
- (2) The licensee shall execute with each owner a written contract specifying the agreement between the licensee and the owner as to the following matters:
 - (a) Method for determining the amounts due from customers to occupy the unit;
 - (b) Percentage of rental amounts due to the owner and the licensee respectively;
 - (c) Whether and for what purpose payments may be made on the owner's behalf and deducted from the owner's percentage of rental amounts; and
 - (d) Date by which rental payments are due to the owner.
- (3) A licensee may not accept goods or services in exchange for occupancy of a unit unless such arrangement is agreed to by the unit owner in a written agreement which includes the method of valuation of the goods/services and the division of payment and such information shall appear on any periodic statement provided by the licensee to that owner.
- (4) No funds shall be distributed from an escrow/trust account until the customer's stay is complete or the deposit is forfeited in accordance with the terms of the rental agreement. Commissions earned by the firm and the revenue due owners shall be disbursed at least monthly. Funds held in escrow shall be disbursed in a prompt manner without unreasonable delay.
- (5) Licensees shall maintain adequate records to assure all disbursements from the escrow/trust account are timely and proper in accordance with the written agreement with the owner and in compliance with Commission rules and regulations. All records required to be maintained shall be stored at or immediately accessible from the firm's office at the location currently on file with the Commission.
- (6) Licensees shall maintain records and procedures, with supporting documentation, to determine what funds are held in escrow/trust by the licensee and to assure those funds are available and on deposit in the escrow/trust bank account. Such records shall include, but are not limited to, documentation regarding reservation or other deposits,

rental payments, and any unpaid amounts due the unit owner. Taxes or other funds may be maintained in the escrow/trust account so long as proper accounting procedures are utilized to enable Commission auditors to readily identify such funds.

(7) Interest Bearing Escrow Accounts

- (a) Interest bearing escrow accounts are neither required nor prohibited. If used, however, the following guidelines shall be observed:
1. The licensee shall disclose to the unit owner that advance deposits and rental income will be placed in an interest bearing escrow account;
 2. As a depositor of the funds, the licensee does not own the funds or any interest earned thereon until properly disbursed to the licensee;
 3. The licensee and the unit owner shall execute a written agreement indicating the manner of disposition of interest earned; and
 4. The licensee shall keep a detailed and accurate accounting of the precise sum of the interest earned for each separate deposit.

Authority: T.C.A. §§62-13-203 and 62-13-104.

1260-7-.03 BRANCH OFFICES.

- (1) A firm will be deemed to maintain a “branch office” if it utilizes an office or business location other than that which is on file with the Commission and:
- (a) Advertises the office in any manner for the purpose of attracting the public to that office;
 - (b) Invites or solicits telephone calls to the office from prospective renters or unit owners (by such means as advertising or listing in a telephone directory); or
 - (c) Books reservations or accepts rental payments at the office.
- (2) Any branch office(s) shall:
- (a) Maintain a separate vacation lodging services firm license; and
 - (b) Designate an agent for purposes of training and education pursuant to T.C.A. §62-13-104(b)(3)(B).

Authority: T.C.A. §§62-13-203 and 62-13-104.

1260-7-.04 DESIGNATED AGENTS.

- (1) A designated agent shall be a person in a managerial or ownership position with the firm.
- (2) A designated agent may not serve as such for more than one licensee or branch office at any given time.

Authority: T.C.A. §§62-13-203 and 62-13-104.

1260-7-.05 LICENSEE OWNED UNITS.

- (1) Licensees renting their own unit(s) who do not place rental or reservation payments for such unit(s) into the firm's escrow or trust account shall disclose this fact in writing to any tenant(s) renting such unit(s).
- (2) Where a licensee rents units belonging to the licensee as well as units belonging to others, a unit shall be deeded in the name of the licensee on file with the Commission and such deed shall be recorded in order to be considered "licensee owned." If a unit is deeded in any other name it will be deemed to be "owned by others" for purposes of T.C.A. §62-13-104(7)(b)(1)(B) and shall be subject to regulation by the Commission.

Authority: T.C.A. §§62-13-203 and 62-13-104.

The Notice of Rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2001. (08-59)

BOARD OF RESPIRATORY CARE - 1330

There will be a hearing before the Tennessee Board of Respiratory Care to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104. 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 Big Tennessee Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 17th day of October, 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 1330-1-.01, Definitions, is amended by deleting paragraphs (7) and (13) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (7) and (13) shall read:

- (7) Board Consultant – Any individual authorized by the Board do the following acts:

- (a) To conduct a review of the qualifications of an applicant for a license or temporary license to practice respiratory care in Tennessee, to make initial an determination as to whether the applicant has met all the requirements to practice respiratory care in Tennessee, and to issue temporary authorizations to practice in accordance with T.C.A. §§ 63-27-116; and
 - (b) To decide the following:
 - 1. What, if any, investigation should be instituted upon complaints received by the Division;
 - 2. What, if any, disciplinary actions should be instituted upon investigations conducted by the Division;
 - 3. What, if any, terms of settlements should be offered in formal disciplinary matters based upon investigations conducted by the Division. A proposed settlement will not become final unless it is subsequently ratified by the board.
- (13) Division - The Division of Health Related Boards, in the Department Of Health, responsible for all administrative, fiscal, inspectional, clerical and secretarial functions of the health related boards enumerated in T.C.A. § 68-1-101.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-101, 63-1-115, 63-1-132, 63-1-142, 63-27-102, 63-27-104, 63-27-116, and 68-1-101.

Rule 1330-1-.01, Definitions, is amended by deleting paragraphs (3), (4), (9), (11), (16), (17), (27), (28), and (29) in their entirety and renumbering the remaining paragraphs accordingly, and is further amended by adding the following language as a new, appropriately numbered paragraph:

- () Board Designee – Any individual authorized by the Board to conduct a review of the qualifications of an applicant for a license or temporary license to practice respiratory care in Tennessee, to make initial an determination as to whether the applicant has met all the requirements to practice respiratory care in Tennessee, and to issue temporary authorizations to practice in accordance with T.C.A. § 63-1-142.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-1-142, and 63-27-104.

Rule 1330-1-.05, Qualifications and Procedures for Licensure, is amended by deleting part (2) (a) 2. and subparagraph (2) (b) in their entirety, and substituting instead the following language, so that as amended, the new part (2) (a) 2. and subparagraph (2) (b) shall read:

- (2) (a) 2. The applicant shall request verification of passage of the advanced level practitioner exam be submitted directly to the Board office from NBRC.
- (2) (b) Certified respiratory therapists: The applicant shall request verification of passage of the entry-level practitioner exam provided by the NBRC be submitted directly to the Board office from the NBRC.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-106, 63-27-107, and 63-27-116.

Rule 1330-1-.06, Fees is amended by replacing the word “reactivate” in subparagraph (1) (d) with the word “reinstate.”

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, and 63-27-109.

Rule 1330-1-.07, Application, Review, Approval, and Denial, is amended by deleting paragraph (2) and subparagraph (7) (c) in their entirety and substituting instead the following language, so that as amended, the new paragraph (2) and the new subparagraph (7) (c) shall read:

- (2) Completed applications may be approved by a Board member or the Board's designee for a temporary authorization pursuant to T.C.A. §§ 63-1-142 and 63-27-116 (d).
- (7) (c) When any applicant has violated any provision of T.C.A. §§ 63-27-101, et seq., or rules promulgated pursuant thereto.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, and 63-27-112.

Rule 1330-1-.07, Application, Review, Approval, and Denial, is amended by deleting subparagraph (7) (a) in its entirety and renumbering the remaining subparagraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104.

Rule 1330-1-.08, Examinations, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by deleting paragraphs (1) and (2) in their entirety, so that as amended, the new catchline shall read:

1330-1-.08 RESERVED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104.

Rule 1330-1-.09, Renewal of License, is amended by deleting subparagraphs (1) (a) and (1) (b) in their entirety and substituting instead the following language, and is further amended by deleting part (1) (c) 3. in its entirety, and is further amended by deleting subparagraph (1) (d), paragraph (2) in their entirety and substituting instead the following language, and is further amended by deleting paragraph (3) in its entirety and renumbering the remaining paragraph accordingly, so that as amended, the new subparagraphs (1) (a), (1) (b), and (1) (d), and the new paragraph (2) shall read:

- (1) (a) The due date for license renewal is the last day of the month in which a birthdate falls pursuant to the Division's biennial birthdate renewal system. The due date is contained on the renewal document designated as the expiration date.
- (1) (b) Methods of Renewal
 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

- (1) (d) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed in accordance with rule 1200-10-1-.10.
- (2) Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:
 - (a) Obtaining and fully completing the Board's Reinstatement Application and submitting it along with payment of all past due registration/renewal fees to the Board office; and
 - (b) Payment of the Late Renewal fee, pursuant to Rule 1330-1-.06; and
 - (c) Provide documentation of successfully completing continuing education requirements for every year the license was expired, pursuant to Rule 1330-1-.12; and

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-27-102, 63-27-104, 63-27-105, 63-27-109, and 63-27-113.

Rule 1330-1-.10, Supervision, is amended by deleting subparagraph (1) (a) in its entirety and renumbering the remaining subparagraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104.

Rule 1330-1-.11, Retirement and Reactivating of License, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (2) (b) in its entirety and renumbering the remaining subparagraphs accordingly, and is further amended by deleting subparagraph (3) (a) in its entirety and substituting instead the following language, so that as amended, the new catchline and the new subparagraph (3) (a) shall read:

1330-1-.11 RETIREMENT AND REINSTATEMENT OF LICENSE.

- (3) (a) Obtain, complete, and submit a Reinstatement Application form to the Board office; and

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, and 63-27-109.

Rule 1330-1-.11, Retirement and Reactivating of License, is amended by replacing the word "reactivation" in subparagraph (3) (c) and paragraph (4) with the word "reinstatement."

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, and 63-27-109.

Rule 1330-1-.12, Continuing Education, is amended by adding the following language to subparagraph (2) (a) as new, appropriately numbered parts, and is further amended by deleting paragraph (7) but not its subparagraphs in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (7) (b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (7) (c) and (7) (d), and is further amended by deleting paragraphs (8) and (9) in their entirety and substituting instead the following language, so that as amended, subparagraph (2) (a)'s new, appropriately numbered parts, the new paragraph (7) but not its subparagraphs, the new subparagraphs (7) (b), (7) (c) and (7) (d), and the new paragraphs (8) and (9) shall read:

- (2) (a) __. American College of Physicians

- (2) (a) ____ Society of Critical Care Medicine
- (7) Continuing Education for Reinstatement of Retired, Revoked, or Expired License.
 - (7) (b) Reinstatement of Revoked License - Any individual requesting reinstatement of a license which has been revoked for non-compliance with the continuing education requirements of this rule must submit, along with the reinstatement request, verification which indicates the attendance and completion of ten (10) contact hours of continuing education for every calendar year for which the license has been revoked. The continuing education hours must have been obtained during the period of revocation with the exception of the most recent calendar year requirement, which must have been completed within the twelve (12) months preceding reinstatement.
 - (7) (c) Reinstatement of Expired Licensure – No person whose license which has expired may be reinstated without submitting evidence of continuing education. The continuing education hours documented at the time of reinstatement must equal the hours required, had the license remained in an active status, and must have been begun and successfully completed before the date of reinstatement.
 - (7) (d) Continuing education hours obtained as a prerequisite for reinstating a license may not be counted toward the calendar year requirement.
- (8) Violations - Any licensee who fails to successfully complete or who falsely certifies attendance and completion of the required hours of continuing requirements may be subject to disciplinary action.
 - (a) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
 - (b) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.
 - (c) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (8) (b) above may be subject to disciplinary action.
 - (d) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.
- (9) Waiver or Extension of Continuing Education
 - (a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education or the Board may grant an extension of the deadline to complete the required hours of continuing education if it can be shown that compliance was beyond the physical or mental capabilities of the person seeking the waiver.
 - (b) Waivers or extension of the deadline will be considered only on an individual basis and may be requested by submitting the following items to the Board office:
 - 1. A written request for a waiver or deadline extension which specifies which requirements are sought to be waived or which deadline is sought to be extended and a written and signed explanation of the reason for the request; and

2. Any documentation which supports the reason(s) for the waiver or deadline extension requested or which is subsequently requested by the Board.
- (c) A waiver or deadline extension approved by the Board is effective only for the renewal period for which the waiver is sought.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-27-104, 63-27-105, 63-27-109, 63-27-112, and 63-27-113.

Rule 1330-1-.12, Continuing Education, is amended by replacing the word “reactivation” in subparagraph (7) (a) and part (7) (a) 2. with the word “reinstatement.”

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, and 63-27-109.

Rule 1330-1-.12, Continuing Education, is amended by deleting paragraph (6) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-27-104, 63-27-105, 63-27-109, 63-27-112, and 63-27-113.

Rule 1330-1-.13, Professional Ethics, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by deleting the introductory sentence and paragraphs (1), (2), and (3) in their entirety, so that as amended, the new catchline shall read:

1330-1-.13 RESERVED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104.

Rule 1330-1-.14, Temporary License or Permit, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by deleting subparagraphs (1) (a) and (1) (b), and paragraph (2) in their entirety and substituting the following language, so that as amended, the new catchline and the new subparagraphs (1) (a) and (1) (b), and paragraph (2) shall read:

RULE 1330-1-.14 TEMPORARY LICENSE.

- (1) (a) Filed with the Board office all documentation of successful completion of the required respiratory care educational program. A temporary license can be issued not to exceed a cumulative period of twelve (12) months. The applicant must request the school to send, directly to the Board office, an official transcript showing completion of the program, diploma, or certificate of completion.
 1. An applicant for temporary license as a registered respiratory therapist shall submit proof of successful completion of a program accredited by the American Medical Association Committee on Allied Health Education and Accreditation (CAHEA) in collaboration with the Joint Review Committee for Respiratory Therapy Education (JRCRTE) or their successor organizations
 2. An applicant for temporary license as a certified respiratory therapist shall submit proof of successful completion of academic and clinical preparation in a respiratory care program approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or other accrediting organization recognized by the Board.

- (1) (b) Applications for temporary licenses may be used for purposes of applying for full licensure. Those applications shall be held open for a period of one (1) year from the date of issuance while awaiting notification of the results of the NBRC examination. If notification of successful completion of the examination is not received in the Board office directly from the NBRC before the expiration of that year, the application will be considered abandoned pursuant to 1330-1-.07.
- (2) A temporary license will always become invalid at the time a permanent license is issued.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, and 63-27-116.*

Rule 1330-1-.15, Disciplinary Grounds, Actions, and Civil Penalties, is amended by deleting paragraphs (1) and (2) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (1) and (2) shall read:

- (1) Grounds upon which the Board may take disciplinary action against a licensee or deny renewal of such licenses and upon which the Board may deny licensure to an applicant therefor are as follows:
 - (a) Fraud in procuring a license.
 - (b) Conviction of a felony.
 - (c) Willful violation of federal or state drug laws.
 - (d) Unprofessional Conduct, which shall include, but not be limited to:
 1. Willfully or repeatedly violating a rule, or violation of a lawful order of the Board previously entered in a disciplinary hearing.
 2. Accepting and performing professional responsibilities which the licensee knows, or has reason to know, he is not competent to perform.
 3. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, or experience, or is not otherwise authorized by law to perform them.
 4. Gross or repeated malpractice.
 5. The failure to deliver respiratory care services with that level of care, skill, and treatment which is recognized by a reasonably prudent registered respiratory therapist, certified respiratory therapist, or respiratory assistant with similar professional training as being acceptable under similar conditions and circumstances.
 6. Paying or receiving any commission, bonus, kickback, rebate or entering into a fee-splitting arrangement in any form whatsoever with any person or organization. The provisions of this section shall not be construed to prevent the licensee from receiving a fee for professional consultation services.
 7. Delivering of respiratory care services while under the influence of alcohol, drugs, narcotics, chemicals, or any other type of material that might impair mental or physical function.
 8. Willfully making or filing a false report or record.

9. Willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing, or inducing another person to do so.
 10. Willful violation or failing to report any violation of the Respiratory Care Practitioner Act or any lawful order issued or rules promulgated pursuant thereto.
 11. Permitting, assisting or advising any person to practice respiratory care who is not licensed pursuant to the Respiratory Care Practitioner Act or these rules.
 12. Failing to perform any statutory or legal obligation placed upon a licensee.
 13. Failing to keep written respiratory care records justifying the reason for the action taken by the licensee.
 14. Procuring, attempting to procure, or renewing a license or permit as provided by this part by means of bribery, or by intentional misrepresentation, or failure to properly complete a licensure or renewal application.
 15. Engaging in conduct designed to, or likely to, deceive, or harm the public.
 16. Being a party to or aiding and abetting the violation of these rules or Tennessee state statutes regulating the practice of respiratory care.
 17. Intentionally or negligently using any false, fraudulent or forged statement, writing or document, or the use of any fraudulent, deceitful, immoral practice in connection with any of the licensing requirements of the Respiratory Care Practitioner Act or these rules.
 18. Engaging in fraudulent, misleading, or deceptive advertising.
 19. Sexual Misconduct – Exercising influence within a respiratory care relationship for purposes of engaging a patient in sexual activity.
- (1) Actions – Upon a finding by the Board that a respiratory care practitioner has violated any provision of the Respiratory Care Practitioner Act or the rules promulgated pursuant thereto, the Board may impose any of the following actions separately or in any combination deemed appropriate to the offense.
 - (a) Denial of an application for licensure
 - (b) Advisory Censure – This is a written action issued to the respiratory care practitioner for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (c) Formal reprimand – This is a written action issued to a respiratory care practitioner for one time and less severe violation(s). It is a formal disciplinary action.
 - (d) Probation – This is a formal disciplinary action which places a respiratory care practitioner on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.
 - (e) Licensure Suspension – This is a formal disciplinary action which suspends an individual's right to practice for a fixed period of time. It contemplates the re-entry of the individual into the practice under the licensure previously issued.

- (f) Licensure Revocation For Cause – This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the license previously issued. The Board, in its discretion, may allow reinstatement of a revoked license upon conditions and after a period of time which it deems appropriate. No petition for reinstatement and no new application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one (1) year unless otherwise stated in the Board’s revocation order.
- (g) Conditions – These include any action deemed appropriate by the Board to be required of an individual applying for initial licensure or renewal or who has been disciplined during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension or the reinstatement of a revoked license.
- (h) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (3) of this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, and 63-27-112.

Rule 1330-1-.17, Change of Name and/or Address, is amended by adding the following introductory language:

1330-1-.17 CHANGE OF NAME AND/OR ADDRESS. The name and address contained in the applicant’s license application shall be the name and address of the licensee where all correspondence and renewal forms from the Board shall be sent.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, and 63-27-105.

Rule 1330-1-.20, Advertising, is amended by deleting the catchline in its entirety and substituting instead the following language, so that as amended, the new catchline shall read:

1330-1-.20 RESERVED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104.

1330-1-.21, Upgrading Classification Requirements, is amended by deleting paragraphs (1) and (2) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (1), (2), and (3) shall read:

- (1) A respiratory assistant may upgrade to certified respiratory therapist by doing the following:
 - (a) Complete and submit a notarized application, attach a current passport photo, and pay the application fee.
 - (b) Have the school or institution provide the Board office with a final official transcript, diploma, or certificate showing proof of completion of academic preparation in a respiratory care program approved by the commission on accreditation of allied health education programs or its successor organization or other accrediting organization recognized by the Board.
 - (c) Have the NBRC submit to the Board office proof of successful completion of the entry level practitioner examination provided by the NBRC and/or proof of certification.
- (2) A respiratory assistant may upgrade to registered respiratory therapist by doing the following:

- (a) Complete and submit a notarized application, attach a current passport photo, and pay the application fee; and
 - (b) Have the school or institution provide the Board office with a final official transcript, diploma, or certificate showing proof of completion of a program accredited by the American Medical Association Committee on Allied Health Education and Accreditation (CAHEA) in collaboration with the joint review committee for respiratory therapy education (JRCRTE) or their successor organizations; and
 - (c) Have the NBRC submit to the Board office proof of successful completion of the advanced level practitioner examination provided by the NBRC.
- (3) A certified respiratory therapist may upgrade to registered respiratory therapist by doing the following:
- (a) Complete and submit a notarized application, attach a current passport photo, and pay the application fee; and
 - (b) Have the school or institution provide the Board office with a final official transcript, diploma, or certificate showing proof of completion of a program accredited by the American Medical Association Committee on Allied Health Education and Accreditation (CAHEA) in collaboration with the joint review committee for respiratory therapy education (JRCRTE) or their successor organizations; and
 - (c) Have the NBRC submit to the Board office proof of successful completion of the advanced level practitioner examination provided by the NBRC.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-105, 63-27-106, 63-27-107, 63-27-113, and 63-27-116.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of August, 2001. (08-12)

BOARD OF SOCIAL WORKER CERTIFICATION AND LICENSURE - 1365

There will be a hearing before the Tennessee Board of Social Worker Certification and Licensure to consider the promulgation of a new rule and amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-23-108. 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 Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 26th day of October, 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 1365-1-.01, Definitions, is amended by deleting paragraph (4) in its entirety, and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§4-5-202, 4-5-204, and 63-23-108.

Rule 1365-1-.06, Fees, is amended by deleting parts (4) (a) 1., (4) (a) 3., (4) (a) 5., (4) (b) 1., (4) (b) 3., (4) (b) 4., and (4) (b) 7., in their entirety and substituting instead the following language, so that as amended, the new parts (4) (a) 1., (4) (a) 3., (4) (a) 5., (4) (b) 1., (4) (b) 3., (4) (b) 4., and (4) (b) 7. shall read:

| | | |
|------------|--------------------|-----------|
| (4) (a) 1. | Certificate | \$ 100.00 |
| (4) (a) 3. | Late Renewal | \$ 100.00 |
| (4) (a) 5. | Renewal (Biennial) | \$ 120.00 |
| (4) (b) 1. | Application | \$ 125.00 |
| (4) (b) 3. | Late Renewal | \$ 100.00 |
| (4) (b) 4. | License | \$ 75.00 |
| (4) (b) 7. | Renewal (Biennial) | \$ 120.00 |

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-107, 63-23-104, and 63-23-108.

Rule 1365-1-.09, Renewal of Certificate or License, is amended by deleting subparagraphs (1) (b) and (1) (d), and paragraph (2) in their entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (3), so that as amended, the new subparagraphs (1) (b), (1) (d), and the new paragraphs (2) and (3) shall read:

- (1) (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (1) (d) Licensees or certificate holders who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses or certificates processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of an Expired License.
 - (a) Reinstatement of a license or a certificate that has expired may be accomplished upon meeting the following conditions:
 - 1. Payment of all past due renewal fees and state regulatory fees, pursuant to Rule 1365-1-.06; and
 - 2. Payment of the Late Renewal fee, pursuant to Rule 1365-1-.06; and
 - 3. Provide documentation of successfully completing continuing education requirements for every year the license or certificate was expired, pursuant to Rule 1365-1-.12.
- (3) Anyone submitting a signed renewal form or letter which is found to be untrue may be subject to disciplinary action as provided in Rule 1365-1-.15.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-23-104, 63-23-106, and 63-23-108.

Rule 1365-1-.12, Continuing Education, is amended by deleting paragraph (8) but not all its subparagraphs, and subparagraph (8) (b) in their entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (8) (c) and (8) (d), and is further amended by deleting paragraph (10) in its entirety and substituting instead the following language, so that as amended, the new paragraph (8) but not all its subparagraphs, the new subparagraphs (8) (b), (8) (c) and (8) (d), and the new paragraph (10) shall read:

- (8) Continuing Education for Reactivation of Retired, Revoked, or Expired Certificate or License.

- (8) (b) Reactivation of a Revoked Certificate or License - No person whose certificate or license has been revoked for failure to comply with continuing education may be reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as that for those certificates or licenses which are active. The required clock hours of continuing education must have been begun and successfully completed within twelve (12) months immediately preceding the date of reactivation. A certificate or license which has been revoked for non-compliance with the continuing education requirement shall also be subject to the late renewal fee pursuant to Rule 1365-1-.06.
- (8) (c) Reactivation of an Expired Certificate or License – No person whose certificate or license which has expired may be reactivated without submitting evidence of continuing education. The continuing education hours documented at the time of reactivation must equal the hours required, had the certificate or license remained in an active status, and must have been begun and must have been begun and successfully completed within twelve (12) months immediately preceding the date of reactivation.
- (8) (d) Continuing education hours obtained as a prerequisite for reactivating a certificate or license may not be counted toward the calendar year requirement for the year in which reactivation is requested.

(10) Violations

- (a) Any licensee or certificate holder who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.
- (b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
- (c) The licensee or certificate holder has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license or certificate.
- (d) Any licensee or certificate holder who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (10) (b) above may be subject to disciplinary action.
- (e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any calendar year.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-23-104, 63-23-106, and 63-23-108.

Rule 1365-1-.12, Continuing Education, 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, 63-1-107, 63-23-104, 63-23-106, and 63-23-108.

Rule 1365-1-.13, Unethical Conduct, is amended by deleting subparagraph (1) (a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (a) shall read:

- (1) (a) All licensees and certificate holders shall comply with the code of ethics adopted by the National Association of Social Workers, 750 First Street, NE, Suite 700, Washington, DC 20002-4241, except to the extent that they conflict with the laws of the state of Tennessee or the rules of the Board. If the codes of ethics conflict with state law or rules, the state law or rules govern the matter. Violation of the codes of ethics or state law or rules may subject a licensee or certificate holder to disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, 63-23-103, 63-23-106, and 63-23-108.

NEW RULE

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1365-1-.21 Professional Peer Assistance

1365-1-.21 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, 63-23-106, and 63-23-108.

The notice of rulemaking set out herein was properly filed in the Department of State on the 7th day of August, 2001. (08-06)

**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 amendments to rules 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 Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 16th day of October, 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 1150-1-.01, Definitions, is amended by deleting paragraph (5) in its entirety and renumbering the remaining paragraphs accordingly.

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

Rule 1150-1-.09, Renewal of License, is amended by deleting subparagraphs (1) (b) and (1) (d), and paragraph (2) in their entirety and substituting instead the following languages, and is further amended by adding the following language as new paragraph (3), so that as amended, the new subparagraphs (1) (b) and (1) (d), and the new paragraphs (2) and (3) shall read:

- (1) (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Committee to the last address provided to the Committee. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (1) (d) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of Expired License

- (a) Reinstatement of an expired license may be accomplished upon payment of the reinstatement fee and the renewal fee as provided in rule 1150-1-.06.
- (b) An individual whose license has been expired for more than three (3) years shall meet the requirements in subparagraph (a), and shall successfully demonstrate to the Committee competency in the practice of physical therapy. For the licensee to successfully demonstrate such competency, the Committee may require
 - 1. an internship as a restricted licensee.
 - 2. remedial courses.
 - 3. an examination.
- (3) Renewal issuance decisions pursuant to this rule may be made administratively or upon review by any Committee member or the Committee's designee.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-13-108, 63-13-304, 63-13-308, 63-13-309, 63-13-312, 63-13-313, 63-13-314, and 63-13-315.

Rule 1150-1-.15, Disciplinary Actions, Civil Penalties, and Assessment of Costs, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (4), so that as amended, the new catchline and the new paragraph (4) shall read:

1150-1-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, ASSESSMENT OF COSTS, AND SCREENING PANELS.

- (4) Screening Panels - Any screening panel(s) established pursuant to Public Chapter 322 of the Public Acts of 2001.
 - (a) Shall have concurrent authority with the Committee members and any individual Physical Therapist or Physical Therapist Assistant designated by the Committee pursuant to paragraph (6) of Rule 1150-1-.19, to do the acts enumerated in paragraph (6) of Rule 1150-1-.19 subject to the conditions contained therein.
 - 1. A screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.
 - 2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
 - (b) After completion of an investigation by the Division, may upon request of either the state, or the licensee who is the subject of an investigation but only with the agreement of the state, or upon agreement of both the licensee and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
 - 1. Neither the Rules of Civil Procedure, the Rules of Evidence, nor Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s).
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.

- (ii) In the absence of an agreement of the parties the screening panel chairperson shall determine the manner and order of presentation of evidence.
2. A certificate holder who is the subject of an investigation being considered by a screening panel cannot be compelled to participate in any informal hearing.
 3. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and
 - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the certificate holder; and
 - (iii) Subsequently presented to and ratified by the Committee or a duly constituted panel of the Committee.

Authority: T.C.A. §§4-5-105, 4-5-202, 4-5-204, 63-1-107, 63-13-108, 63-13-304, 63-13-312, 63-13-313, 63-13-314, 63-13-315, and Public Chapter 322 of the Public Acts of 2001.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of August, 2001. (08-37)

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

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Occupational Therapy to consider the promulgation of amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, and 63-13-108. 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 Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 16th day of October, 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 1150-2-.01, Definitions, is amended by deleting paragraph (5) in its entirety and renumbering the remaining paragraphs accordingly.

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

Rule 1150-2-.09, Renewal of Certificate, is amended by deleting subparagraphs (1) (b) and (1) (d), and paragraph (2) in their entirety and substituting instead the following languages, and is further amended by adding the following language as new paragraph (3), so that as amended, the new subparagraphs (1) (b) and (1) (d), and the new paragraphs (2) and (3) shall read:

- (1) (b) Methods of Renewal
 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 2. Paper Renewals - For individuals who have not renewed their certificate online via the Internet, a renewal application form will be mailed to each individual certified by the Committee to the last address provided to the Committee. Failure to receive such notification does not relieve the certificate holder from the responsibility of meeting all requirements for renewal.
- (1) (d) Certificate holders who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their certificates processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of Expired Certificate
 - (a) Reinstatement of an expired certificate may be accomplished upon meeting the following conditions:
 1. Payment of all past due renewal and State regulatory fees;
 2. Payment of the late renewal fee provided in Rule 1150—2—.06;
 - (b) Anyone submitting a signed renewal form or letter which is found to be untrue may be subjecting himself to disciplinary action as provided in Rule 1150—1—.15.
- (3) Renewal issuance decisions pursuant to this rule may be made administratively or upon review by any Committee member or the Committee's designee.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-13-108, 63-13-204, and 63-13-209.

Rule 1150-2-.15, Disciplinary Actions and Civil Penalties, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (4), so that as amended, the new catchline and the new paragraph (4) shall read:

1150-2-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, AND SCREENING PANELS.

- (4) Screening Panels - Any screening panel(s) established pursuant to Public Chapter 322 of the Public Acts of 2001.
- (a) Shall have concurrent authority with the Committee members and any individual Occupational Therapist or Occupational Therapist Assistant designated by the Committee pursuant to paragraph (6) of Rule 1150-2-.19, to do the acts enumerated in paragraph (6) of Rule 1150-2-.19 subject to the conditions contained therein.
1. A screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.
 2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
- (b) After completion of an investigation by the Division, may upon request of either the state, or the certificate holder who is the subject of an investigation but only with the agreement of the state, or upon agreement of both the certificate holder and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
1. Neither the Rules of Civil Procedure, the Rules of Evidence, nor Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s).
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) In the absence of an agreement of the parties the screening panel chairperson shall determine the manner and order of presentation of evidence.
 2. A certificate holder who is the subject of an investigation being considered by a screening panel cannot be compelled to participate in any informal hearing.
 3. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and
 - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the certificate holder; and
 - (iii) Subsequently presented to and ratified by the Committee or a duly constituted panel of the Committee.

Authority: T.C.A. §§4-5-105, 4-5-202, 4-5-204, 63-1-107, 63-13-108, 63-13-209, 63-12-210, and Public Chapter 322 of the Public Acts of 2001.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of August, 2001. (08-35)

BOARD OF VETERINARY MEDICAL EXAMINERS - 1730

There will be a hearing before the Tennessee Board of Veterinary Medical Examiners to consider the promulgation of new rules and amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, 63-12-105, and 63-12-106. 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 Johnson Rm. of the Cordell Hull Bldg. located at 425 5th Ave. N., Nashville, TN at 2:30 p.m. (CST) on the 29th day of November, 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 Ave. North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES**AMENDMENTS**

Rule 1730-1-.01, Definitions, is amended by deleting paragraph (1) in its entirety and renumbering the remaining paragraphs accordingly, and is further amended by adding the following language as new, appropriately numbered paragraphs:

- () Conspicuous Place – A place easily viewable by the public.
- () Physical Plant – The physical structure of a veterinary facility and all items located within it to include: records, equipment, pharmaceuticals, animal quarters, radiology, surgery, safety measures, storage, lighting, heating, and any other areas as deemed necessary for inclusion by the Board of Veterinary Medical Examiners.
- () “Surgery” means:
 - (a) Aseptic Surgery – surgery performed in ways or by means sufficiently free from micro-organisms so that significant infection or suppuration does not occur.
 - (b) Major Surgery – any surgical intervention that penetrates and exposes the body cavity and/or any procedure associated with extensive transection or dissection of tissue.
- () “Veterinary Practice” means:
 - (a) Large Animal Practice – a practice in which ninety percent (90%) or more of the animals seen/treated are equine, farm animal, or any other animals deemed as “large animal” by the Board of Veterinary Medical Examiners.

- (b) Small Animal Practice – a practice in which ninety percent (90%) or more of the animals seen/treated are companion animals or any other animals deemed as “small animal” by the Board of Veterinary Medical Examiners.
- (c) Mixed Animal Practice – a practice in which both large and small animals are seen/treated and the percentage of animals seen/treated exceeds ten percent (10%) for both types of animals.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-139.

Rule 1730-1-.09, Renewal of License, is amended by deleting subparagraphs (1) (a) and (1) (b) in their entirety and substituting instead the following language, and is further amended by deleting part (1) (c) 1. in its entirety and substituting instead the following language and is further amended by deleting subparagraphs (1) (d) and (1) (e) in their entirety and substituting instead the following language, and is further amended by deleting subparagraphs (1) (f) and (1) (g) in their entirety, and is further amended by deleting paragraph (2) but not all its subparagraphs and by deleting subparagraph (2) (a) but not its parts in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (a), (1) (b), the new part (1) (c) 1., the new subparagraphs (1) (d) and (1) (e), the new paragraph (2) but not all its subparagraphs, and the new subparagraph (2) (a) but not its parts shall read:

- (1) (a) The due date for license renewal is the last day of the month of the license period pursuant to the Division’s biennial renewal system.
- (1) (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (1) (c) 1. A completed Board renewal application form; and
- (1) (d) Anyone submitting a renewal form or letter which is found to be untrue may be subjecting himself to disciplinary action as provided in Rule 1730-1-.15.
- (1) (e) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed in accordance with rule 1200-10-1-.10.
- (2) Reinstatement of an Expired License
 - (a) Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-12-105, 63-12-106, 63-12-120, 63-12-121, 63-12-124, and 63-12-128.

Rule 1730-1-.12, Continuing Education, is amended by deleting subparagraph (2) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (b) shall read:

- (2) (b) Each veterinarian must, on a Board provided form, attest to attendance and completion of the required continuing education hours and that such hours were obtained during the calendar years of report.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-120, and 63-12-121.

Rule 1730-1-.15, Disciplinary Actions, Civil Penalties, and Assessment of Costs, is amended by deleting the catchline in its entirety and substituting instead the following new catchline and is further amended by deleting subparagraph (2) (e) but not all its parts in its entirety, and is further amended by deleting part (2) (e) 1. in its entirety, and is further amended by renumbering part (2) (e) 2. as subparagraph (2) (e) and is further amended by adding the following language as new paragraph (8), so that as amended, the new catchline and the new paragraph (8) shall read:

1730-1-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, ASSESSMENT OF COSTS, AND SCREENING PANELS.

- (8) Screening Panels - Any screening panel(s) established pursuant to Public Chapter 322:
- (a) Shall have concurrent authority with the Board and any individual appointed by the Board pursuant to Rule 1730-1-.19, to do the acts enumerated in Rule 1730-1-.19 (1) (b) subject to the conditions contained therein.
1. A Screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.
 2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
- (b) After completion of an investigation by the Division, may upon request of either the state, or the licensee who is the subject of an investigation with the agreement of the state, or upon request of both the licensee and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
1. Neither the Rules of Civil Procedure, the Rules of Mediation and Arbitration, the Rules of Evidence, or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s). However, Rule 31 of the Rules of the Tennessee Supreme Court may serve as general guidance as to the principles of mediation and alternative dispute resolution.
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
 2. Informal hearings may be conducted without the participation of the licensee who is the subject of the investigation.

3. Neither the state nor a licensee who is the subject of an investigation being considered by a screening panel can be compelled to participate in any informal hearing.
4. It is not required that prior or subsequent notice of any informal hearing be given to any licensee who is the subject of an investigation being considered by a screening panel.
5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and
 - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the licensee; and
 - (iii) Subsequently presented to and ratified by the Board.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and Public Chapter 322 of the Public Acts of 2001.*

Rule 1730-1-.22, Recordkeeping, is amended by deleting paragraphs (1), (2), (3), and (4) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (1), (2), and (3) shall read:

- (1) The following minimum standards apply to all recordkeeping.
 - (a) Records are maintained for a minimum of five (5) years.
 - (b) A separate log shall be maintained for all controlled substances.
 - (c) Records reflect referral of cases where further expertise or equipment is needed.
 - (d) A veterinarian shall comply in a reasonable manner under the circumstances to any requests for veterinary records or summaries thereof, within the provisions of the Tennessee Veterinary Practice Act.
- (2) Medical records for small animal facilities/practices are clear, legible, retrievable and contain:
 - (a) Name, address, and phone number of the owner/agent.
 - (b) Identification of patient including name, species, breed, age, sex, and description.
 - (c) Separate record for each patient. This record may be in a group of records for the owner/agent.
 - (d) Patient's vaccination, medical and surgical history.
 - (e) Presenting complaints and clinical findings.
 - (f) Diagnostic tests used.
 - (g) Diagnosis or tentative diagnosis.
 - (h) Treatment and drugs administered and dispensed including dosages.

- (i) Notation of special idiosyncrasies and physical abnormalities.
- (3) Medical records for large animal facilities/practices are clear, legible, retrievable, are maintained on either a herd (flock) or individual basis and contain:
 - (a) Name and initials, business/farm name, address, and phone number of the owner/agent.
 - (b) Animal(s) identification.
 - (c) Presenting history and clinical signs of the individual, group or herd (flock).
 - (d) Vaccination status of the individual or herd (flock).
 - (e) Laboratory reports including clinical pathology and necropsy findings.
 - (f) Record of the assessment of the individual, group or herd (flock) documenting:
 - 1. Verbal (when practical) or written communication with the owner.
 - 2. Sufficient information to indicate the assessment of the individual group or herd (flock), planned treatment, and any reports that are applicable.
 - 3. The drugs prescribed or dispensed including strength, dosage, quantity, precautions, withdrawal times, etc.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, and 63-12-106.

Rule 1730-2-.01, Definitions, is amended by deleting paragraph (1) in its entirety and renumbering the remaining paragraphs accordingly, and is further amended by adding the following language as new, appropriately numbered paragraphs:

- () Conspicuous Place – A place easily viewable by the public.
- () Physical Plant – The physical structure of a veterinary facility and all items located within it to include: records, equipment, pharmaceuticals, animal quarters, radiology, surgery, safety measures, storage, lighting, heating, and any other areas as deemed necessary for inclusion by the Board of Veterinary Medical Examiners.
- () “Surgery” means:
 - (a) Aseptic Surgery – surgery performed in ways or by means sufficiently free from micro-organisms so that significant infection or suppuration does not occur.
 - (b) Major Surgery – any surgical intervention that penetrates and exposes the body cavity and/or any procedure associated with extensive transection or dissection of tissue.
- () “Veterinary Practice” means:
 - (a) Large Animal Practice – a practice in which ninety percent (90%) or more of the animals seen/treated are equine, farm animal, or any other animals deemed as “large animal” by the Board of Veterinary Medical Examiners.

- (b) Small Animal Practice – a practice in which ninety percent (90%) or more of the animals seen/treated are companion animals or any other animals deemed as “small animal” by the Board of Veterinary Medical Examiners.
- (c) Mixed Animal Practice – a practice in which both large and small animals are seen/treated and the percentage of animals seen/treated exceeds ten percent (10%) for both types of animals.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-139.

Rule 1730-2-.04, Recordkeeping, is amended by deleting paragraphs (1), (2), and (3) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (1), (2), and (3) shall read:

- (1) The following minimum standards apply to all patient recordkeeping.
 - (a) Records are maintained for a minimum of five (5) years.
 - (b) A separate log shall be maintained for all controlled substances.
 - (c) Records reflect referral of cases where further expertise or equipment is needed.
 - (d) A veterinarian shall comply in a reasonable manner under the circumstances to any requests for veterinary records or summaries thereof, within the provisions of the Tennessee Veterinary Practice Act.
- (2) Medical records for small animal facilities/practices are clear, legible, retrievable and contain:
 - (a) Name, address, and phone number of the owner/agent.
 - (b) Identification of patient including name, species, breed, age, sex, and description.
 - (c) Separate record for each patient. This record may be in a group of records for the owner/agent.
 - (d) Patient’s vaccination, medical, and surgical history.
 - (e) Presenting complaints and clinical findings.
 - (f) Diagnostic tests used.
 - (g) Diagnosis or tentative diagnosis.
 - (h) Treatment and drugs administered and dispensed, including dosages.
 - (i) Notation of special idiosyncrasies and physical abnormalities.
- (3) Medical records for large animal facilities/practices are clear, legible, retrievable, are maintained on either a herd (flock) or individual basis and contain:
 - (a) Name and initials, business/farm name, address, and phone number of the owner/agent.
 - (b) Animal(s) identification.

- (c) Presenting history and clinical signs of the individual, group or herd (flock).
- (d) Vaccination status of the individual or herd (flock).
- (e) Laboratory reports including clinical pathology and necropsy findings.
- (f) Record of the assessment of the individual, group or herd (flock) documenting:
 - 1. Verbal (when practical) or written communication with the owner.
 - 2. Sufficient information to indicate the assessment of the individual group or herd (flock), planned treatment, and any reports that are applicable.
 - 3. The drugs prescribed or dispensed including strength, dosage, quantity, precautions, withdrawal times, etc.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-139.

Rule 1730-2-.06, Fees, is amended by deleting subparagraph (1) (c) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (c) shall read:

- (1) (c) Premises Permit Fee – A non-refundable fee to be paid at time of application by a facility owned by a non-veterinarian.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-139.

Rule 1730-2-.08, Surgery, is amended by deleting subparagraphs (1) (i) and (1) (j) in their entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (1) (k) and (1) (l), so that as amended, the new subparagraphs (1) (i), (1) (j), (1) (k), and (1) (l) shall read:

- (1) (i) There shall be available for surgery sterilized instruments, gowns, towels, drapes, gloves, caps, and surgically appropriate scrub brushes and masks.
- (1) (j) Surgery room is equipped with emergency lighting.
- (1) (k) Surgeries are carried out using aseptic techniques appropriate for the procedure.
- (1) (l) Anesthesia gas with positive pressure oxygen, in proper working order, shall be available for major surgery and meet the following requirements:
 - 1. The gas anesthetic machine is serviced and the vaporizer calibrated at least every two (2) years.
 - 2. A gas scavenger is used with the anesthetic machine.
 - 3. There is a documented preanesthesia examination for all patients including a history and physical, a complete blood count test where necessary, and other laboratory work when required.

4. Female employees are aware of potential risks to pregnancy by exposure to some gaseous anesthetics.
5. Endotracheal intubation is available for dogs and cats undergoing major surgery.
6. A monitoring device is available.
7. Veterinary personnel monitor anesthetic recovery under direct supervision.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-139.

Rule 1730-2-.12, Reserved, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as new paragraphs (1), (2), (3), (4), (5), and (6) so that as amended, the new catchline and the new paragraphs (1), (2), (3), (4), (5), and (6) shall read:

1730-2-.12 RENEWAL OF PREMISES PERMIT/REINSTATEMENT OF EXPIRED PREMISES PERMIT.

- (1) The due date for renewal is the expiration date on the most current facility premises permit/renewal permit.
- (2) A renewal application form will be mailed to each facility registered with the Board to the last address provided to the Board. Failure to receive such notification does not relieve the facility of the responsibility of timely meeting all requirements for renewal.
- (3) To be eligible for renewal, a facility must have all of the following items completed and submitted to the Division of Health Related Boards on or before the expiration date:
 - (a) A completed Board renewal application form;
 - (b) The renewal and state regulatory fees as provided in Rule 1730-2-.06; and
 - (c) Compliance with renewal inspection as provided in Rule 1730-2-.02.
- (4) Any facility submitting a renewal form or letter which is found to be untrue may be subjecting the supervising veterinarian to disciplinary action as provided in rule 1730-2-.15.
- (5) Facilities that fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their premises permits processed in accordance with rule 1200-10-1-.10.
- (6) Reinstatement of an Expired Premises Permit
 - (a) Reinstatement of a certificate that has expired may be accomplished upon meeting the following conditions:
 1. Payment of all past due renewal and state regulatory fees; and
 2. Payment of the late renewal fee provided in Rule 1730-2-.06; and
 3. Compliance with inspection as provided in Rule 1730-2-.02.

- (b) Reinstatement decisions pursuant to this rule may be made administratively or reviewed by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-12-105, 63-12-106, 63-12-121, and 63-12-139.

Rule 1730-2-.14, Reserved, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as new paragraphs (1), (2), (3), (4), (5), and (6) so that as amended, the new catchline and the new paragraphs (1), (2), (3), (4), (5), and (6) shall read:

1730-2-.14 EXAM ROOM AND TREATMENT AREA.

- (1) Small Animal
 - (a) Examination Room
 - 1. There is a separate room for examinations.
 - 2. The room is clean, orderly, and well lit.
 - 3. Surfaces are constructed of material easily cleaned and disinfected.
 - 4. The waste receptacles is covered or concealed.
 - (b) Treatment Room
 - 1. The room is of ample size for proper function and is clean and orderly.
 - 2. The treatment room has adequate lighting.
 - 3. The treatment room is supplied with running water.
- (2) Large Animal - Exam and Treatment Area
 - (a) The room is of ample size for proper function and is clean and orderly.
 - (b) The room is clean, orderly, and well lit.
 - (c) Surfaces are constructed of material easily cleaned and disinfected.
 - (d) The waste receptacles is covered or concealed.
 - (e) Appropriate cleaning equipment and supplies are available.
 - (f) Loading and restraint facilities are adequate for the type of practice.
 - (g) There are adequate floor drains.
 - (h) The area is conveniently equipped with auxiliary supplies.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-139.

Rule 1730-2-.15, Disciplinary Actions, Civil Penalties, and Assessment of Costs, is amended by deleting the catchline in its entirety and substituting instead the following new catchline and is further amended by deleting subparagraph (2) (e) but not all its parts in its entirety, and is further amended by deleting part (2) (e) 1. in its entirety, and is further amended by renumbering part (2) (e) 2. as subparagraph (2) (e) and is further amended by adding the following language as new paragraph (8), so that as amended, the new catchline and the new paragraph (8) shall read:

1730-2-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, ASSESSMENT OF COSTS, AND SCREENING PANELS.

- (8) Screening Panels - Any screening panel(s) established pursuant to Public Chapter 322:
- (a) Shall have concurrent authority with the Board and any individual appointed by the Board pursuant to Rule 1730-1-.19, to do the acts enumerated in Rule 1730-1-.19(1)(b) subject to the conditions contained therein.
 - 1. A Screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.
 - 2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
 - (b) After completion of an investigation by the Division, may upon request of either the state, or the licensee and/or premises owner who is the subject of an investigation with the agreement of the state, or upon request of both the licensee and/or premises owner, and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
 - 1. Neither the Rules of Civil Procedure, the Rules of Mediation and Arbitration, the Rules of Evidence, or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s). However, Rule 31 of the Rules of the Tennessee Supreme Court may serve as general guidance as to the principles of mediation and alternative dispute resolution.
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
 - 2. Informal hearings may be conducted without the participation of the licensee who is the subject of the investigation.
 - 3. Neither the state nor a licensee and or premises owner who is the subject of an investigation being considered by a screening panel can be compelled to participate in any informal hearing.
 - 4. It is not required that prior or subsequent notice of any informal hearing be given to any licensee and or premises/owner who is the subject of an investigation being considered by a screening panel.

5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and
 - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the licensee and/or premises owner; and
 - (iii) Subsequently presented to and ratified by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and Public Chapter 322 of the Public Acts of 2001.

Rule 1730-3-.01, Definitions, is amended by deleting paragraph (1) in its entirety and renumbering the remaining paragraphs accordingly, and is further amended by adding the following language as new, appropriately numbered paragraphs:

- () Conspicuous Place – A place easily viewable by the public.
- () Physical Plant – The physical structure of a veterinary facility and all items located within it to include: records, equipment, pharmaceuticals, animal quarters, radiology, surgery, safety measures, storage, lighting, heating, and any other areas as deemed necessary for inclusion by the Board of Veterinary Medical Examiners.
- () “Surgery” means:
 - (a) Aseptic Surgery – surgery performed in ways or by means sufficiently free from micro-organisms so that significant infection or suppuration does not occur.
 - (b) Major Surgery – any surgical intervention that penetrates and exposes the body cavity and/or any procedure associated with extensive transection or dissection of tissue.
- () “Veterinary Practice” means:
 - (a) Large Animal Practice – a practice in which ninety percent (90%) or more of the animals seen/treated are equine, farm animal, or any other animals deemed as “large animal” by the Board of Veterinary Medical Examiners.
 - (b) Small Animal Practice – a practice in which ninety percent (90%) or more of the animals seen/treated are companion animals or any other animals deemed as “small animal” by the Board of Veterinary Medical Examiners.
 - (c) Mixed Animal Practice – a practice in which both large and small animals are seen/treated and the percentage of animals seen/treated exceeds ten percent (10%) for both types of animals.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-139.

Rule 1730-3-.09, Renewal of License, is amended by deleting subparagraphs (1) (a) and (1) (b) in their entirety and substituting instead the following language, and is further amended by deleting parts (1) (c) 1. in its entirety and substituting instead the following language, and is further amended by deleting subparagraphs (1) (d) and (1) (e) in their entirety and substituting instead the following language, and is further amended by deleting subparagraphs (1) (f) and (1) (g) in their entirety and is further amended by deleting paragraph (2) but not all its subparagraphs and by deleting subparagraph (2) (a) but not its parts in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (a), (1) (b), the new part (1) (c) 1., the new subparagraphs (1) (d) and (1) (e), the new paragraph (2) but not all its subparagraphs, and the new subparagraph (2) (a) but not its parts shall read:

- (1) (a) The due date for license renewal is the last day of the month of the license period pursuant to the Division's biennial renewal system.
- (1) (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (1) (c) 1. A completed Board renewal application form; and
- (1) (d) Anyone submitting a renewal form or letter which is found to be untrue may be subjecting himself to disciplinary action as provided in Rule 1730-3-.15.
- (1) (e) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed in accordance with rule 1200-10-1-.10.
- (2) Reinstatement of an Expired License
 - (2) (a) Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-12-105, 63-12-106, 63-12-120, 63-12-121, 63-12-124, 63-12-128, and 63-12-135.

Rule 1730-3-.12, Continuing Education, is amended by deleting subparagraph (2) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (b) shall read:

- (2) (b) Each veterinary medical technician must, on a Board provided form, attest to attendance and completion of the required continuing education hours and that such hours were obtained during the calendar year of report.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-120, 63-12-121, and 63-12-135.

Rule 1730-3-.15, Disciplinary Actions, Civil Penalties, and Assessment of Costs, is amended by deleting the catchline in its entirety and substituting instead the following new catchline and is further amended by deleting subparagraph (2) (e) but not all its parts in its entirety, and is further amended by deleting part (2) (e) 1. in its entirety, and is further amended by renumbering part (2) (e) 2. as subparagraph (2) (e) and is further amended by adding the following language as new paragraph (8), so that as amended, the new catchline and the new paragraph (8) shall read:

1730-3-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, ASSESSMENT OF COSTS, AND SCREENING PANELS.

- (8) Screening Panels - Any screening panel(s) established pursuant to Public Chapter 322:
- (a) Shall have concurrent authority with the Board and any individual appointed by the Board pursuant to Rule 1730-3-.19, to do the acts enumerated in Rule 1730-3-.19 (1) (b) subject to the conditions contained therein.
 - 1. A Screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.
 - 2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
 - (b) After completion of an investigation by the Division, may upon request of either the state, or the licensee who is the subject of an investigation with the agreement of the state, or upon request of both the licensee and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
 - 1. Neither the Rules of Civil Procedure, the Rules of Mediation and Arbitration, the Rules of Evidence, or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s). However, Rule 31 of the Rules of the Tennessee Supreme Court may serve as general guidance as to the principles of mediation and alternative dispute resolution.
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
 - 2. Informal hearings may be conducted without the participation of the licensee who is the subject of the investigation.
 - 3. Neither the state nor a licensee who is the subject of an investigation being considered by a screening panel can be compelled to participate in any informal hearing.
 - 4. It is not required that prior or subsequent notice of any informal hearing be given to any licensee who is the subject of an investigation being considered by a screening panel.
 - 5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and

- (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the licensee; and
- (iii) Subsequently presented to and ratified by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-135, and Public Chapter 322 of the Public Acts of 2001.

Rule 1730-4-.01, Definitions, is amended by deleting paragraph (1) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, and 63-12-106.

Rule 1730-4-.08, Renewal Application/Reinstatement of Administratively Revoked Certificate, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by deleting part (1) (c) 1. and subparagraph (1) (e) in their entirety and substituting instead the following language, and is further amended by deleting subparagraphs (1) (f) and (1) (g) in their entirety, and is further amended by deleting paragraph (2) but not all its subparagraphs and by deleting subparagraph (2) (a) but not its parts in their entirety and substituting instead the following language, so that as amended, the new catchline, the new part (1) (c) 1., the new subparagraph (1) (e), the new paragraph (2) but not all its subparagraphs, and the new subparagraph (2) (a) but not its parts shall read:

1730-4-.08 RENEWAL APPLICATION/REINSTATEMENT OF EXPIRED CERTIFICATE.

- (1) (c) 1. A completed Board renewal application form; and
- (1) (e) Certificate holders who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their certificates processed in accordance with rule 1200-10-1-.10.
- (2) Reinstatement of an Expired Certificate
 - (2) (a) Reinstatement of a certificate that has expired may be accomplished upon meeting the following conditions:

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-12-105, 63-12-106, 63-12-120, 63-12-121, 63-12-124, 63-12-128, and 63-12-141.

Rule 1730-4-.12, Disciplinary Actions, Civil Penalties, and Assessment of Costs, is amended by deleting the catchline in its entirety and substituting instead the following new catchline and is further amended by deleting subparagraph (1) (g) but not all its parts in its entirety, and is further amended by deleting part (1) (g) 1. in its entirety, and is further amended by renumbering part (1) (g) 2. as subparagraph (1) (g) and is further amended by adding the following language as new paragraph (5), so that as amended, the new catchline and the new paragraph (5) shall read:

1730-4-.12 DISCIPLINARY ACTIONS, CIVIL PENALTIES, ASSESSMENT OF COSTS, AND SCREENING PANELS.

- (5) Screening Panels - Any screening panel(s) established pursuant to Public Chapter 322:
 - (a) Shall have concurrent authority with the Board and any individual appointed by the Board pursuant to Rule 1730-1-.19, to do the acts enumerated in Rule 1730-1-.19(1)(b) subject to the conditions contained therein.

1. A Screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.
 2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
- (b) After completion of an investigation by the Division, may upon request of either the state, or the C.A.C.A. which is the subject of an investigation with the agreement of the state, or upon request of both the C.A.C.A. and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
1. Neither the Rules of Civil Procedure, the Rules of Mediation and Arbitration, the Rules of Evidence, or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s). However, Rule 31 of the Rules of the Tennessee Supreme Court may serve as general guidance as to the principles of mediation and alternative dispute resolution.
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
 2. Informal hearings may be conducted without the participation of the C.A.C.A. which is the subject of the investigation.
 3. Neither the state nor a C.A.C.A. which is the subject of an investigation being considered by a screening panel can be compelled to participate in any informal hearing.
 4. It is not required that prior or subsequent notice of any informal hearing be given to any C.A.C.A. that is the subject of an investigation being considered by a screening panel.
 5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and
 - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the C.A.C.A.; and
 - (iii) Subsequently presented to and ratified by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-141, and Public Chapter 322 of the Public Acts of 2001.

Rule 1730-5-.01, Definitions, is amended by deleting paragraph (1) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, and 63-12-106.

Rule 1730-5-.08, Renewal Application/Reinstatement of Administratively Revoked Certificate, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by deleting subparagraphs (1) (a) and (1) (b) in their entirety and substituting instead the following language, and is further amended by deleting part (1) (c) 1. in its entirety and substituting instead the following language, and is further amended by deleting subparagraphs (1) (d) and (1) (e) in their entirety and substituting instead the following language, and is further amended by deleting subparagraphs (1) (f) and (1) (g) in their entirety, and is further amended by deleting paragraph (2) but not all its subparagraphs and by deleting subparagraph (2) (a) but not its parts in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (a), (1) (b), the new part (1) (c) 1., the new subparagraphs (1) (d) and (1) (e), the new paragraph (2) but not all its subparagraphs, and the new subparagraph (2) (a) but not its parts shall read:

1730-5-.08 RENEWAL APPLICATION/REINSTATEMENT OF EXPIRED CERTIFICATE.

- (1) (a) The due date for certificate renewal is the last day of the month of the certification period pursuant to the Division's biennial renewal system.
- (1) (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - For individuals who have not renewed their certificate online via the Internet, a renewal application form will be mailed to each individual certified by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the certificate holder from the responsibility of meeting all requirements for renewal.
- (1) (c) 1. A completed Board renewal application form; and
- (1) (d) Anyone submitting a renewal form or letter which is found to be untrue may be subjecting himself to disciplinary action as provided in Rule 1730-5-.12.
- (1) (e) Certificate holders who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their certificates processed in accordance with rule 1200-10-1-.10.
- (2) Reinstatement of an Expired Certificate
 - (2) (a) Reinstatement of a certificate that has expired may be accomplished upon meeting the following conditions:

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-12-105, 63-12-106, 63-12-120, 63-12-121, 63-12-124, 63-12-128, and 63-12-141.

Rule 1730-5-.15, Disciplinary Actions, Civil Penalties, and Assessment of Costs, is amended by deleting the catchline in its entirety and substituting instead the following new catchline and is further amended by deleting subparagraph (1) (g) but not all its parts in its entirety, and is further amended by deleting part (1) (g) 1. in its entirety, and is further amended by renumbering part (1) (g) 2. as subparagraph (1) (g) and is further amended by adding the following language as new paragraph (5), so that as amended, the new catchline and the new paragraph (5) shall read:

1730-5-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, ASSESSMENT OF COSTS, AND SCREENING PANELS.

- (5) Screening Panels - Any screening panel(s) established pursuant to Public Chapter 322:
- (a) Shall have concurrent authority with the Board and any individual appointed by the Board pursuant to Rule 1730-5-.09, to do the acts enumerated in Rule 1730-5-.09 (1) (b) subject to the conditions contained therein.
 - 1. A Screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.
 - 2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
 - (b) After completion of an investigation by the Division, may upon request of either the state, or the C.A.E.T. who is the subject of an investigation with the agreement of the state, or upon request of both the C.A.E.T. and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
 - 1. Neither the Rules of Civil Procedure, the Rules of Mediation and Arbitration, the Rules of Evidence, or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s). However, Rule 31 of the Rules of the Tennessee Supreme Court may serve as general guidance as to the principles of mediation and alternative dispute resolution.
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
 - 2. Informal hearings may be conducted without the participation of the C.A.E.T. who is the subject of the investigation.
 - 3. Neither the state nor a C.A.E.T. who is the subject of an investigation being considered by a screening panel can be compelled to participate in any informal hearing.
 - 4. It is not required that prior or subsequent notice of any informal hearing be given to any C.A.E.T. who is the subject of an investigation being considered by a screening panel.
 - 5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and
 - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the C.A.E.T.; and
 - (iii) Subsequently presented to and ratified by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, 63-12-141, and Public Chapter 322 of the Public Acts of 2001.

NEW RULES**TABLE OF CONTENTS**

1730-2-.16 Hospitalization

1730-2-.17 Written Agreements for Non-Provided Services

1730-2-.16 HOSPITALIZATION.

- (1) Inpatients are examined at least once daily by a Veterinarian.
- (2) Hospitalized animals are fed and watered at least once daily, and more frequently if required.
- (3) Hospitalized animals are exercised twice daily if applicable.
- (4) All hospitalized animals are checked as necessary over a twenty-four (24) hour period.
- (5) Hospitalized animals are bathed and groomed as required.
- (6) Wards are orderly, free of bad odors, have adequate ventilation and temperature control.
- (7) Cages or kennels have solid partitions and have a method for securely fastening them closed.
- (8) Pens and stalls are clean, orderly, free of objectionable odors and have adequate ventilation.
- (9) Pens and stalls are well lighted, are constructed of impervious material for easy cleaning and have a method for securely fastening them closed.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-139.

1730-2-.17 WRITTEN AGREEMENTS FOR NON-PROVIDED SERVICES.

- (1) If certain veterinary services are not provided, the veterinarians must have a written agreement with a local veterinary facility for the provision of these non-provided services. These non-provided services may include the following:
 - (a) Radiology
 - (b) Hospitalization
 - (c) Laboratory Services
 - (d) Surgery
 - (e) Emergency Services
- (2) A list of non-provided services must be posted in a conspicuous place.

- (3) A documented referral to a laboratory is acceptable for laboratory services.
- (4) If emergency services are not available, the name, address, and phone number of the facility offering the emergency services must be posted in a conspicuous place that is easily viewable to the public both during and after the hours of operation.
- (5) A copy of the written agreement must be on file with the Board of Veterinary Medical Examiners that includes the signatures of the supervising veterinarians involved.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-105, 63-12-106, and 63-12-139.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of August, 2001. (08-34)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of rules, amendments of rules, or repeals of rules pursuant to Tennessee Code Annotated, Section 70-1-206. 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 River Terrace Resort & Convention Center, located at 240 River Road, Gatlinburg, Tennessee, commencing at 9:00 A.M., local time, on the 25th day of October, 2001.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Wildlife Resources Agency 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 Tennessee Wildlife Resources Agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Wildlife Resources Agency ADA Coordinator, Carolyn Wilson, Room 229, Tennessee Wildlife Resources Agency Building, Ellington Agricultural Center, Nashville, Tennessee 37204 and telephone number (615)781-6594.

For a copy of this notice of rulemaking hearing, contact: Sheryl Holtam, Attorney, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, telephone number (615)781-6606.

SUBSTANCE OF PROPOSED RULES**AMENDMENT**

Rule 1660-2-7-.11 Special Areas is amended by deleting paragraph (1) in its entirety and substituting the following as paragraph (1):

- (1) All motorboats being operated within 300 feet of a commercial dock (unless otherwise marked and approved under 1660-2-6-.01, and measured from the furthestmost structure from the shore recognizable as being part of the boat dock) will be operated at a slow no-wake speed. The area shall be marked with either buoys or signs and should be clearly visible to the boating public. For purposes of this section a commercial dock is defined as any permanent facility open to the public and accessible by boat, which offers goods or services to the general public in exchange for currency or other consideration and has a local business license, or a valid Tennessee Tax Identification number.

Authority: *T.C.A. §§70-1-206, 69-10-209.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of August, 2001. (08-36)



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 August 1, 2001 and ending August 31, 2001.


RILEY C. DARNELL
Secretary of State

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