

TAAAR



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RILEY C. DARNELL
Secretary of State

Division of Publications
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PREFACE

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

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

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

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

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

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

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

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

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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 10.00 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 November 2001 is 9.51 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 5.51 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 September 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	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
09-01	Sept 6, 2001	1200 Health Bureau of Health Services Administration Division of General Environmental He	Public Necessity Rules	New Rules	<i>Chapter 1200-23-6 Body Piercing</i> 1200-23-6-.01 Definitions 1200-23-6-.02 Prohibited Acts 1200-23-6-.03 Consent and Body Piercing of Minors 1200-23-6-.03 Minimum Standards for Body Piercing Establishments 1200-23-6-.04 Body Piercing Establishment Operation 1200-23-6-.05 Establishment Permitting and Inspection System 1200-23-6-.06 Body Piercing Technician Licensing 1200-23-6-.07 Licensing and Permitting Fees 1200-23-6-.08 Loss of Permit Document 1200-23-6-.09 General Provisions	Jerrold R. Daniels Tennessee Towers, 26th Floor 312 Eight Avenue, North Nashville, TN 37247-0101 (615) 741-1611	Sept 6, 2001 through Feb 18, 2002
09-02	Sept 7, 2001	0250 Children's Services Social Services Division	Rulemaking Hearing Rules	New Rules	<i>Chapter 0250-7-13 Adoption Process Forms</i> 0250-7-13-.01 Purpose, Scope and Format of Rules 0250-7-13-.02 Medical/Social History of Child's Family Form. 0250-7-13-.03 Surrender Documents for Use in Surrenders to a Licensed Child-Placing Agency or the Tennessee Department of Children's Services in these matters, in a Tennessee Court. 0250-7-13-.04 Surrender Documents for Use in Surrenders Directly to Prospective Adoptive Parents in a Tennessee Court. 0250-7-13-.05 Surrender Documents for Use in Surrenders to a Licensed Child-Placing Agency or the Tennessee Department of Children's Services in these matters, in Court in Another State or Territory. 0250-7-13-.06 Surrender Documents for Use in Surrenders Directly to Prospective Adoptive Parents in a Court in Another State or Territory.	Stacy Miller DSC Central Legal Office TN Twrs 312 8th Ave N 25 th Fl Nashville TN 37243 615-253-2161	Nov 21, 2001

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
09-02, cont.					0250-7-13-.07 Surrender Documents for Use in Surrenders to a Licensed Child-Placing Agency or the Tennessee Department of Children's Services in these matters, before United States Foreign Service Officer or Officer of the United States Armed Forces in a Foreign Country.		Nov 21, 2001
					0250-7-13-.08 Surrender Documents for Use in Surrenders Directly to Prospective Adoptive Parents before a United States Foreign Service Officer or Officer of the United States Armed Forces in a Foreign Country.		
					0250-7-13-.09 Surrender Documents for Use in Surrenders to a Licensed Child-Placing Agency or the Tennessee Department of Children's Services in these matters, by an Inmate of a State or Federal Penitentiary.		
					0250-7-13-.10 Surrender Documents for Use in Surrenders Directly to Prospective Adoptive Parents by an Inmate of a State or Federal Penitentiary.		
					0250-7-13-.11 Parental Consent Form Used in Confirmation of Consent Proceeding before the Court.		
					0250-7-13-.12 Certification of Social Counseling Form.		
					0250-7-13-.13 Certification of Legal Counseling.		
					0250-7-13-.14 Payment Disclosure Form.		
					0250-7-13-.15 Adoption Consent Form for Minor Who is Fourteen (14) Years of Age.		
					0250-7-13-.16 Adoption Consent Form for Use by Guardian Ad Litem for Minor Who is Fourteen (14) Years of Age and Who is Mentally Disabled.		

ANNOUNCEMENTS

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
09-02, cont.					0250-7-13-.17 Adoption Consent Form for Use by Guardian Ad Litem, Guardian or Conservator for Adult Who is Being Adopted and Who is Mentally Disabled. 0250-7-13-.18 Fee Disclosure Form for Agency or Licensed Clinical Social Worker. 0250-7-13-.19 Fee Disclosure Form for Attorney. 0250-7-13-.20 Release of Information Form for Updated Medical Information. 0250-7-13-.21 Consent by a Licensed Child-Placing Agency or by the Tennessee Department of Children's Services for Adoption of a Child.		
09-03	Sept 7, 2001	0250 Children's Services Social Services Division	Rulemaking Hearing Rules	New Rules	<i>Chapter 0250-7-11</i> <i>Release of Non-Identifying Information from Records of Adoptions and Transmittal of Medical Information Regarding Certain Persons Affected by Adoptions</i> 0250-7-11-.01 Purpose of Chapter 0250-7-11-.02 Definitions 0250-7-11-.03 Procedures for Release of Non-Identifying Information and/or Transmittal of Updated Medical Information 0250-7-11-.04 Fees and Charges for Non-Identifying Information 0250-7-11-.05 Appendix - Forms	Stacy Miller DSC Central Legal Office TN Twrs 312 8th Ave N 25 th Fl Nashville TN 37243 615-253-2161	Nov 21, 2001
09-04	Sept 7, 2001	0250 Children's Services Social Services Division	Rulemaking Hearing Rules	Amendments	<i>Chapter 0250-7-7</i> <i>Access To Adoption Records Finalized Prior To 1951 and Access To Records Maintained By The Tennessee Children's Home Society</i> 0250-7-7-.01 Purpose of Chapter 0250-7-7-.02 Definitions for Purposes of this Chapter 0250-7-7-.03 Procedures for Access to Records 0250-7-7-.04 Fees and Charges for Adoption Record Information	Stacy Miller DSC Central Legal Office TN Twrs 312 8th Ave N 25 th Fl Nashville TN 37243 615-253-2161	Nov 21, 2001

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
09-05	Sept 13, 2001	0080 Agriculture Division of Regulatory Services	Proposed Rules	Amendments	<i>Chapter 0080-6-19 Imported Fire Ant Quarantine</i> 0080-6-19-.03 Regulated Areas	Patricia Clark, General Counsel Agriculture Ellington Agricultural Center Box 40627, Melrose Station Nashville, TN 37204-0627 (615) 837-5093	Jan 28, 2002
09-06	Sept 13, 2001	0080 Agriculture Division of Regulatory Services	Proposed Rules	Repeal	<i>Chapter 0080-6-10 Soybean Cyst Nematode Quarantine</i>	Patricia Clark, General Counsel Agriculture Ellington Agricultural Center Box 40627, Melrose Station Nashville, TN 37204-0627 (615) 837-5093	Jan 28, 2002
09-07	Sept 13, 2001	1730 Veterinary Medical Examiners	Rulemaking Hearing Rules	Amendment	<i>Chapter 1730-2 General Rules Governing Veterinary Facilities</i> 1730-2-.09 Laboratory Services	Rachel Nelley OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Nov 26, 2001
09-08	Sept 13, 2001	1730 Veterinary Medical Examiners	Rulemaking Hearing Rules	Amendment	<i>Chapter 1730-1 General Rules Governing Veterinarians</i> 1730-1-.12 Continuing Education <i>Chapter 1730-2 General Rules Governing Veterinary Facilities</i> 1730-2-.03 Veterinary Facility Inspections to Obtain a Premises Permit 1730-2-.04 Recordkeeping 1730-2-.08 Surgery 1730-2-.10 Radiology Chapter 1730-2-.11 Animal Quarters 1730-2-.13 Unprofessional Conduct of A Premises Owner and/or Veterinarian <i>Chapter 1730-3 General Rules Governing Veterinary Medical Technicians</i> 1730-3-.12 Continuing Education 1730-2-.13 Unprofessional Conduct of A Premises Owner and/or Veterinarian	Rachel Nelley OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Nov 26, 2001

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
09-08, cont.					<i>Chapter 1730-4 General Rules Governing Certified Animal Control Agencies</i> 1730-4-.08 Renewal Application/Reinstatement of Administratively Revoked Certificate		
09-09	Sept 13, 2001	1200 Health Board of Alcohol and Drug Abuse Counselors	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-30-1 Rules Governing Licensure of Alcohol and Drug Abuse Counselors</i> 1200-30-1-.12 Continuing Education	Glen Watson OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37243 615-741-1611	Nov 27, 2001
09-10	Sept 13, 2001	1370 Board of Communications Disorders and Sciences	Rulemaking Hearing Rules	Amendment	<i>Chapter 1370-1 Rules for Speech Pathology and Audiology</i> 1370-1-.01 Definitions 1370-1-.12 Continuing Education	Glen Watson OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37243 615-741-1611	Nov 27, 2001
09-11	Sept 18, 2001	1000 Board of Nursing	Notice of Rulemaking Hearing	Amendments	1000-1-.03 Biennial Registration (Renewal) 1000-1-.15 Scope of Practice 1000-2-.03 Biennial Registration (Renewal),		Hearing Date: Nov 30, 2001
09-14	Sept 18, 2001	1240 Human Services Family Assistance Division	Rulemaking Hearing Rules	Amendments	<i>Chapter 1240-1-2 Family Assistance Unit Food Stamp Program</i> 1240-1-2-.02 Household Concept - Food Stamps Only <i>Chapter 1240-1-3 Non-Financial Eligibility Requirements</i> 1240-1-3-.12 Eligible Aliens 1240-1-3-.43 Food Stamp Program Work Requirements 1240-1-3-.45 Failure To Comply, Good Cause, And Disqualification 1240-1-3-.46 Disqualification for Voluntarily Quitting a Job or Reducing Work Effort <i>Chapter 1240-1-4 Financial Eligibility Requirements</i> 1240-1-4-.05 Exempt Resources 1240-1-4-.27 Standard Of Need/Income	Phyllis A. Simpson Assistant General Counsel Department of Human Services Tennessee Tower, 26 th Floor 312 8 th Avenue North Nashville, TN 37243 (615) 741-9534	Dec 2, 2001
09-15	Sept 18, 2001	0400 Environment & Conservation Superfund	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-1-13 Hazardous Substance Remedial Action</i> 1200-1-13-.13 List of Inactive Hazardous Substance Sites (79-522)	Robert L. Powell 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	Dec 2, 2001

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
09-16	Sept 18, 2001	0400 Environment and Conservation Division of Superfund	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-1-13 Hazardous Substance Remedial Action</i> 1200-1-13-.13 List of Inactive Hazardous Substance Sites (82-531)	Robert L. Powell Division of Superfund 4th Floor Annex, L & C Building Nashville, TN 37243-1538 (615)532-0916	Nov 29, 2001
09-17	Sept 18, 2001	0400 Environment and Conservation Division of Superfund	Proposed Rules	Amendments	<i>Chapter 1200-1-13 Hazardous Substance Remedial Action</i> 1200-1-13-.13 List of Inactive Hazardous Substance Sites (79-520)	Robert L. Powell Division of Superfund 4th Floor Annex, L & C Building Nashville, TN 37243-1538 (615)532-0916	Jan 28, 2002
09-18	Sept 19, 2001	0400 Environment and Conservation Bureau of Environment Division of Air Pollution Control	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-3-29 Light-Duty Motor Vehicle Inspection and Maintenance</i> 1200-3-29-.02 Definitions 1200-3-29-.04 Exemption From Motor Vehicle Inspection Requirements 1200-3-29-.05 Motor Vehicle Emission Performance Test Criteria 1200-3-29-.06 Motor Vehicle Anti-Tampering Test Criteria 1200-3-29-.07 Motor Vehicle Emissions Performance Test Methods 1200-3-29-.08 Motor Vehicle Anti-Tampering Test Methods 1200-3-29-.10 Motor Vehicle Inspection Fee	Mrs. Vicki Lowe Air Pollution Control 9th Floor L & C Annex 401 Church Street Nashville, TN 37243-1531 (615)532-6811	Dec 3, 2001
09-20	Sept 21, 2001	1200 Health Board For Licensing Health Care Facilities	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-8-25 Standards for Assisted Care Living Facilities</i> 1200-8-25-.04 Administration	Anita Van Tries Department of Health Health Care Facilities 1 st Floor, Cordell Hull Building 425 Fifth Avenue North Nashville, TN 37247-0508 615-741-7586	Dec 5, 2001
09-21	Sept 21, 2001	1200 Health Bureau of Health Services	Notice of Withdrawal of Rules		1200-14-1-.29 (7) Immunization Against Certain Chest Diseases Prior to Entry into Schools in TN (filed July 10, 2001; effective Sept 23, 2001)	Jerrold Daniels 3rd Fl Cordell Hull Bldg 425 5th Ave N Nashville TN 37247 615-741-3111	
09-22	Sept 25, 2001	1220 TN Regulatory Authority	Stay of Effectice Date		1220-4-2-.55 Regulatory Reform	Fred Standbrook WMB Nashville Tn 37243-0059	Nov 2, 2001

ANNOUNCEMENTS

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
09-23	Sept 26, 2001	1330 Health Board of Respiratory Care	Rulemaking Hearing Rules	Amendments	<i>Chapter 1330-1</i> <i>General Rules Governing Respiratory Care Practitioners</i> 1330-1-.01 Definitions 1330-1-.22 ABG Endorsement	Rachel Nelley OGC 26 th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 (615) 741-1611	Dec 10, 2001
09-30	Sept 28, 2001	0400 Environment and Conservation Division of Superfund	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-1-13</i> <i>Hazardous Substance Remedial Action</i> 1200-1-13-.13 List of Inactive Hazardous Substance Sites (82-508)	Robert L. Powell Division of Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	Nov 29, 2001
09-31	Sept 28, 2001	0620 Finance and Administration Bureau of TennCare	Public Necessity Rules	Amendments	<i>Chapter 1200-13-12</i> <i>Bureau of TennCare</i> 1200-13-12-.02 Eligibility 1200-13-12-.03 Enrollment, Disenrollment, Re-enrollment, and Reassignment	George Woods Bureau of TennCare 729 Church St Nashville, TN 37247 (615) 741-0145	Sept 28, 2001 through March 12, 2002

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

NOTICE OF WITHDRAWAL OF RULES

The Department of Health hereby gives notice of withdrawal of Rule 1200-14-1-.29 (7) filed with the Department of State on the 10 day of July, 2001, to have become effective on the 23 day of September, 2001.

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

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 September 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
Fort Sanders West Outpatient Diagnostic Center 210 Fort Sanders West Blvd., Bldg. 3, Suite 100 Knoxville (Knox Co.), TN 37922 Lee Ann Lambdin – (865)—380-2347 CN0108-055	The acquisition of an Electron Beam Computed Tomography scanner (EBCT) to be located at Fort Sanders West Outpatient Diagnostic Center, 210 Fort Sanders West Boulevard, Building 3, Suite 100, Knoxville, Tennessee. \$ 3,688,622.00
Carey Counseling Center, Inc. Poplar Bend Residential Treatment Facility 10 Perritt Lane, P.O. Box 874 Huntingdon (Carroll Co.), TN 38344 Sarah Pitt – (731)—642-0521 CN0108-056	The addition of eight (8) mental health residential treatment facility beds to twelve (12) existing residential beds at Cary Counseling Center, Inc. – Poplar Bend Residential Treatment Facility for a total of twenty (20) mental health residential treatment facility beds at 10 Perritt Lane in Huntingdon, Carroll County, Tennessee. \$ 35,000.00
Livingston Regional Hospital 315 Oak Street Livingston (Overton Co.), TN 38570 John Wellborn – (615)—665-2022 CN0108-057	The addition of four (4) acute care hospital beds to the license of Livingston Regional Hospital and the expansion of rehabilitation services. The four (4) beds will be added to the existing ten (10) bed rehab unit for a total of fourteen (14) rehabilitation beds. The hospital's total bed complement will increase from one hundred ten (110) beds to one hundred fourteen (114) beds. If approved, the hospital's skilled nursing unit will delicense four (4) beds resulting in an eight (8) bed skilled nursing unit. \$ 270,000.00
St. Mary's Medical Center 900 E. Oak Hill Avenue Knoxville (Knox Co.), TN 37917 David T. Lewis (865)—545-7547 CN0108-058	The initiation of Positron Emission Tomography (PET) imaging services and the acquisition of a PET Scanner to be located at St. Mary's Medical Center, 900 E. Oak Hill Avenue, Knoxville, Tennessee. \$ 2,699,000.00

NAME AND ADDRESS

DESCRIPTION

Vanderbilt Medical Center
 D-3300, Medical Center
 North Huntingdon (Carroll Co.), TN 38344
 Norman B. Urmy (615)—322-2151
 CN0108-059

The initiation of psychiatric services and the addition of eighty-eight (88) acute care hospital beds for a total of seven hundred and nineteen (719) beds. The eighty-eight (88) beds will be added to the license of Vanderbilt University Medical Center as: forty-six (46) adult psych beds; twenty-eight (28) child psych beds; and fourteen (14) adult chemical dependency (A & D) beds. If approved, Vanderbilt University Medical Center will surrender both the license issued by the Department of Mental Health/Developmental Disabilities for seventy-two (72) beds and the license issued by the Department of Health for sixteen (16) residential rehabilitation treatment facility beds at The Psychiatric Hospital at Vanderbilt. The beds will be incorporated into the license held by Vanderbilt University medical Center and the beds will be certified for Medicare participation as a PPS exempt unit.
 \$ 8,000.00

Johnson City Medical Center
 400 N. State of Franklin Road
 Johnson City (Washington Co.), TN 37604
 Kelly Crepps – (423)—431-6052
 CN0108-060

The addition of fifty-four (54) acute care beds to the licensed bed capacity of Johnson City Medical Center. Twelve (12) of the fifty-four (54) beds will be added to the neonatal intensive care unit for a total of thirty-two (32) beds. North Side Hospital will delicense fifty-four (54) acute care beds, if this application is approved.
 \$ 12,650,100.00

North Side Hospital
 401 Princeton Road
 Johnson City (Washington Co.), TN 37604
 Kelly Crepps (423)—431-6052
 CN0108-061

The addition of twenty-one (21) Medicare certified skilled nursing home beds to the license of North Side Hospital. If approved, Franklin Transition Care located in Johnson City Medical Center will delicense twenty-one (21) skilled nursing home beds.
 \$ 175,000.00

Cookeville Regional Medical Authority
 142 West Fifth Street
 Cookeville (Putnam Co.), TN 38501
 John Wellborn (615)—665-2022
 CN0108-062

The initiation of rehabilitation services and the addition of twenty (20) acute care hospital beds for a total of 247 hospital beds at Cookeville Regional Medical Authority. The hospital proposes to purchase a vacant single floor facility at 215 West Sixth Street, Cookeville, Tennessee and operate an acute inpatient rehabilitation services in a twenty (20) bed satellite facility under the hospital license.
 \$ 3,874,000.00

NAME AND ADDRESS	DESCRIPTION
Takoma Adventist Hospital 401 Takoma Avenue Greeneville (Greene Co.), TN 37743 John Wellborn (615)—665-2022 CN0108-063	The initiation of rehabilitation services. Thirteen (13) skilled nursing beds will be delicensed and converted to an eleven (11) bed rehabilitation unit. Eleven (11) medical/surgical hospital beds will also be delicensed. If this application is approved, the total hospital bed complement will remain unchanged at 94 beds while the skilled nursing facility will decrease to eight (8) beds. This project will take place at Takoma Adventist Hospital at 401 Takoma Avenue, Greeneville, Tennessee. \$ 105,000.00
Knoxville Comprehensive Breast Center, PLLC 6307 Lonas Drive Knoxville (Knox Co.), TN 37909 Kamilia F. Kozlowski, M.D. (865)—584-0291 CN0108-064	The initiation of Magnetic Resonance Imaging (MRI) services and the acquisition of an AURORA model dedicated breast MRI Scanner to be located at Knoxville Comprehensive Breast Center (KCBC), 6307 Lonas Road, Knoxville, Tennessee. \$ 1,685,100.00

TENNESSEE REGULATORY AUTHORITY - 1220

STAY OF EFFECTIVE DATE OF RULES BY THE G.O.C.

Please be advised that pursuant to Tennessee Code Annotated, Section 4-5-215, the Government Operations Committees voted to stay until November 1, 2001, the effectiveness of the following rules:

Tennessee Regulatory Authority
 Proposed amendments to Rule Chapter 1220-4-2-.55(2)
 Regulations for Telephone Companies

Fred Standbrook
 Legislative Attorney

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 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

DEPARTMENT OF AGRICULTURE - 0080 REGULATORY SERVICES DIVISION

CHAPTER 0080-6-10 SOYBEAN CYST NEMATODE QUARANTINE

Presented herein is the proposed repeal of certain rules of the Tennessee Department of Agriculture submitted pursuant to T.C.A., Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Agriculture 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 repeals are published. Such petition to be effective must be filed in the office of the Commissioner of the Tennessee Department of Agriculture located at Ellington Agricultural Center, 440 Hogan Road, Nashville, Tennessee 37204, and in the Department of State, Administrative Procedures Division, 8th Floor, William R Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the proposed rule, contact Patricia Clark, General Counsel, Tennessee Department of Agriculture, P. O. Box 40627, Nashville, Tennessee 37204, (615) 837-5093.

REPEALS

Chapter 0080-6-10 Soybean Cyst Nematode Quarantine is repealed in its entirety.

Authority: T.C.A. Sections 43-6-104 and 106.

The proposed rules set out herein were properly filed in the Department of State on the 13th day of September, 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 January, 2002. (09-06)

DEPARTMENT OF AGRICULTURE - 0080
DIVISION OF REGULATORY SERVICES

CHAPTER 0080-6-19
IMPORTED FIRE ANT QUARANTINE

Presented herein are proposed amendments of the Tennessee Department of Agriculture submitted pursuant to Tennessee Code Annotated, Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Department of Agriculture to promulgate these amendments without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in the Commissioner of Agriculture's office located in the Moss Building at Ellington Agricultural Center, 440 Hogan Road, Nashville, Tennessee 37204, and in the Department of State, Administrative Procedures Division, 8th Floor, William R Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, 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 amendments, contact Patricia Clark, General Counsel, Ellington Agricultural Center, 440 Hogan Road, P.O. Box 40627, Nashville, Tennessee 37204, (615) 837-5093.

The text of the proposed amendments is as follows:

AMENDMENTS

Rule 0080-6-19-.03 Regulated Areas is amended by deleting the language in its entirety and substituting in its place the following language so that as amended the rule shall read:

- (1) Regulated areas include any area in which the red, black, or hybrid fire ant is known to exist as enumerated by the United States Department of Agriculture Imported Fire Ant Quarantine in 7 C.F.R. §301.81-3(e) (1998) and subsequent amendments thereto, or by the Tennessee Department of Agriculture Imported Fire Ant Quarantine as set out in this rule, or as may be established in other states by the authorities having responsibility to regulate the spread of these pests within their border; and
 - (a) In Tennessee as follows:
 1. Bradley County. The entire county.
 2. Chester County. The entire county.
 3. Decatur County. That portion of the county lying south of Interstate Highway 40.
 4. Fayette County. The entire county.
 5. Franklin County. That portion of the county lying south of TN Highway 50 moving East from the Moore County line to US Highway 64 going east to US Highway Alt 41 to the Grundy/Marion County line; also the entire city limits of Winchester, TN, Decherd, TN, and Estill Springs, TN.
 6. Giles County. That portion of the county lying south of a line beginning at the Giles/Marshall County line on TN Highway 129, continuing west along TN Highway 129 until reaching US Highway 31, and then continuing west along an imaginary line until reaching the Lawrence County line.

7. Hamilton County. The entire county.
8. Hardeman County. The entire county.
9. Hardin County. The entire county.
10. Haywood County. That portion of the county lying south of Interstate Highway 40 from the Fayette County line to the Madison County line.
11. Henderson County. The entire county.
12. Lewis County. The entire county.
13. Lawrence County. The entire county.
14. Lincoln County. The entire county.
15. Madison County. The entire county.
16. Marion County. The entire county.
17. Marshall County. That portion of the county lying south of TN Highway 129 going east to US Highway Alt 31, north to TN Highway 50 southeast to the Lincoln County line.
18. Maury County. That portion of the county lying south or west of a line beginning at the Lewis/Maury County line on U. S. Highway 412 continuing east along U.S. 412 until reaching TN Highway 166 and then continuing southeast along TN Highway 166 until reaching Dry Creek Road and then continuing south along Dry Creek Road until reaching the Lawrence County line.
19. McMinn County. The entire county.
20. McNairy County. The entire county.
21. Meigs County. The entire county.
22. Monroe County. That portion of the county lying south of a line beginning at the Loudon/Monroe County line on TN Highway 68, continuing southeast along TN Highway 68 until reaching US Highway 411 and then continuing northeast along US Highway 411 until reaching the Loudon County line; also the entire city limits of Sweetwater, TN, Madisonville, TN, and Vonore, TN.
23. Moore County. That portion of the county lying south of a line beginning at the Bedford/Moore County line on TN Highway 82, continuing southeast along TN Highway 82 until reaching TN Highway 55 and then continuing northeast along Tennessee Highway 55 until reaching Cobb Hollow Road and then continuing east on Cobb Hollow Road until reaching the Coffee County line.
24. Perry County. That portion of the county lying south of Latitude 35 degrees 45 minutes.
25. Polk County. The entire county.
26. Rhea County. The entire county.

27. Sequatchie County. That portion of the county lying south of a line beginning at the Grundy/Sequatchie County line on TN Highway 399, continuing northeast along TN Highway 399 until reaching TN Highway 8/111 and then continuing northeast along an imaginary line until reaching the Bledsoe County line.
28. Shelby County. The entire county.
29. Wayne County. The entire county.

Authority: T.C.A. §§ 43-6-104 and 43-6-106 (9).

The proposed rules set out herein were properly filed in the Department of State on the 13th day of September, 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 January, 2002. (09-06)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0040
DIVISION OF SUPERFUND**

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

Presented herein is a proposed amendment of Rule Chapter 1200-1-13 Hazardous Substance Remedial Action of the Tennessee Department of Environment and Conservation, Division of Superfund, and Solid Waste Disposal Control Board pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Solid Waste Disposal Control Board to promulgate these rules pursuant to T.C.A. §§68-212-206(e) and 68-212-215(e). and The Uniform Administrative Procedures Act, T.C.A. §4-5-101 *et seq.* 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 General Counsel, 25th Floor of the Snodgrass Building located at 312 8th Avenue, North, Nashville, Tennessee 37243 and the Department of State, 8th Floor, Snodgrass Building located at 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. The text of the proposed amendment follows:

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
79-520	Firestone Tire and Rubber Memphis, TN

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

The proposed rules set out herein were properly filed in the Department of State on the 18th day of September, 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 January, 2002. (09-17)

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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)
- 1240 - Department of Human Services - Adult and Family services Division - Public Necessity Rules dealing with 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, chapter 1240-4-7 Report Cards and Rated Licensing for Child Care Agencies, 9 T.A.R. (September 2001) - Filed August 4, 2001; effective through January 13, 2002. (08-02)
- 1255 - Real Estate Appraiser Commission - Public necessity rules dealing with 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, chapter 1255-6 Reciprocity, 9 T.A.R. (September 2001) - Filed August 30, 2001; effective through February 11, 2002. (08-48)

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

STATEMENT OF NECESSITY REQUIRING PUBLIC NECESSITY RULES

I am herewith submitting proposed amendments to the rules of the Department of Finance and Administration, Bureau of TennCare, for promulgation under the provisions of the Uniform Administrative Procedures Act and Tennessee Code Annotated §71-5-134.

The Commissioner is authorized to promulgate public necessity rules to “comply with or to implement the provisions of any federal waiver” permitted under the TennCare Medical Assistance Program (T.C.A. §§71-5-101 et seq.). T.C.A. §71-5-134.

The TennCare Demonstration Waiver authorized the State to enroll categories of adults who were not otherwise eligible for Medicaid. Pursuant to the state of Tennessee’s request during the first half of 1999 to close enrollment to several of the above referenced categories, the Centers for Medicare and Medicaid Services (‘CMS’, formerly HCFA) have now concurred with the State and Provided us with the State and Provided us with the requisite authority to act on our assessment that circumstances warrant state flexibility to prioritize enrollment in the TennCare program, thereby safeguarding the substantial expansion population already being served. Of particular concern to the State is the budget shortfall coupled with the fact that TennCare is above the appropriated spending allowance. The Department of Finance and Administration has determined that, in recent months, there has been extraordinary growth in the TennCare population and in fact, TennCare is precipitously closed to its 1.5 million enrollment cap. In order to stabilize the TennCare program and to minimize impact upon current enrollees of the program by avoiding drastic reductions in services, the Department of Finance and Administration has determined that it is necessary to take action by immediately implementing the measures set forth herein.

The terms of the TennCare Demonstration Waiver as now approved by CMS, authorize the State to close enrollment to categories of adults who are not otherwise eligible for Medicaid. In the absence of public necessity rules, the Department would not be able to implement the newly authorized terms of the waiver. Accordingly, public necessity rules are authorized pursuant to T.C.A. 71-5-134.

Therefore, the Department of Finance and Administration, Bureau of TennCare hereby proceeds without prior notice or hearing to adopt these public necessity rules.

For a copy of these public necessity rules, contact George Woods at the Bureau of TennCare by mail at 729 Church Street, Nashville TN 37247-6501 or by telephone at 615-741-0145.

Mark E. Reynolds
Deputy Commissioner
Bureau of TennCare
Department of Finance and Administration

**PUBLIC NECESSITY RULES
OF
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
CHAPTER 1200-13-12**

AMENDMENTS

The introductory statement of subparagraph (b) of paragraph (2) rule 1200-13-12-.02 Eligibility shall be amended by adding new text before the existing text so that the amended introductory statement shall read as follows:

- (b) Subject to any additional restrictions which are described elsewhere in rule 1200-13-12-.02 Eligibility or rule 1200-13-12-.03 Enrollment, Disenrollment, Re-enrollment, and Reassignment, all non-Medicaid eligible individuals must meet the following technical requirements:

Authority: T.C.A. §§4-5-209, 71-5-134, Public Chapter 358, §7 of the Acts of 1993.

Paragraph (2) rule 1200-13-12-.02 Eligibility shall be amended by adding a new subparagraph (d) so that as amended the paragraph shall read as follows:

- (d) Effective October 1, 2001, enrollment of additional persons in the TennCare and TennCare Partners programs shall only be permitted to persons who
1. would have been Medicaid eligible under the Medicaid program as it was administered during fiscal year 1992-93 pursuant to 1200-13-12-.02 (4)(a)1; or
 2. are persons losing Medicaid eligibility for TennCare who have no access to insurance if determined to meet the non-Medicaid eligibility criteria pursuant to 1200-13-12-.02(2)(b); or
 3. are uninsured children pursuant to 1200-13-12-.02(4)(a)5 and 1200-13-12-.02(4)(a)6; or
 4. are uninsurable children under age nineteen (19) who are 'uninsurable' as defined in rule 1200-13-12-.01.

This provision constitutes a closure of enrollment for all other applicants and supercedes any other rule provision indicating that enrollment is open for such applicants.

Authority: T.C.A. §§4-5-209, 71-5-134, Public Chapter 358, §7 of the Acts of 1993.

The introductory statement of subparagraph (a) of paragraph (4) rule 1200-13-12-.02 Eligibility shall be amended by adding new text before the existing text so that the amended introductory statement shall read as follows:

- (a) Subject to any additional restrictions which are described elsewhere in rule 1200-13-12-.02 Eligibility or rule 1200-13-12-.03 Enrollment, Disenrollment, Re-Enrollment, and Reassignment, eligibility for the TennCare and TennCare Partners programs is limited to individuals who meet one of the following criteria:

Authority: T.C.A. §§4-5-209, 71-5-134, Public Chapter 358, §7 of the Acts of 1993.

Paragraph (4) rule 1200-13-12-.02 Eligibility shall be amended by adding a new subparagraph (d) which shall read as follows:

- (d) Effective October 1, 2001, enrollment of additional persons in the TennCare and TennCare Partners programs shall only be permitted to persons who
1. would have been Medicaid eligible under the Medicaid program as it was administered during fiscal year 1992-93 pursuant to 1200-13-12-.02 (4)(a)1; or
 2. are persons losing Medicaid eligibility for TennCare who have no access to insurance if determined to meet the non-Medicaid eligibility criteria pursuant to 1200-13-12-.02(2)(b); or
 3. are uninsured children pursuant to 1200-13-12-.02(4)(a)5 and 1200-13-12-.02(4)(a)6; or
 4. are uninsurable children under age nineteen (19) who are ‘uninsurable’ as defined in rule 1200-13-12-.01.

This provision constitutes a closure of enrollment for all other applicants and supercedes any other rule provision indicating that enrollment is open for such applicants.

Authority: T.C.A. §§4-5-209, 71-5-134, Public Chapter 358, §7 of the Acts of 1993.

Paragraph (1) rule 1200-13-12-.03 Enrollment, Disenrollment, Re-enrollment, and Reassignment shall be amended by deleting the word “Health” in the introductory paragraph and replacing it with the words “Finance and Administration” so that, as amended, the first sentence of paragraph (1) shall read as follows:

Persons determined eligible to enroll in TennCare by the Tennessee Department of Human Services or the Tennessee Department of Finance and Administration shall do so in accordance with the following.

Authority: T.C.A. §§4-5-209, 71-5-134, Public Chapter 358, §7 of the Acts of 1993.

The introductory statement of subparagraph (b) of paragraph (1) rule 1200-13-12-.03 Enrollment, Disenrollment, Re-enrollment, and Reassignment shall be deleted in its entirety and replaced with the revised introductory statement as follows:

- (b) Subject to any additional restrictions which are described elsewhere in 1200-13-12-.02 Eligibility or rule 1200-13-12-.03 Enrollment, Disenrollment, Re-enrollment, and Reassignment, the following TennCare eligibles shall be allowed to enroll in the TennCare and TennCare Partners programs at any time:

Authority: T.C.A. §§4-5-209, 71-5-134, Public Chapter 358, §7 of the Acts of 1993.

Paragraph (1) rule 1200-13-12-.03 Enrollment shall be amended by adding a new subparagraph, which shall read as follows:

- (q) Effective October 1, 2001, enrollment of additional persons in the TennCare and TennCare Partners programs shall only be permitted to persons who
1. would have been Medicaid eligible under the Medicaid program as it was administered during fiscal year 1992-93 pursuant to 1200-13-12-.02(4)(a)1; or
 2. are persons losing Medicaid eligibility for TennCare who have no access to insurance if determined to meet the non-Medicaid eligibility criteria pursuant to 1200-13-12-.02(2)(b); or
 3. are uninsured children pursuant to 1200-13-12-.02(4)(a)5 and 1200-13-12-.02(4)(a)6; or

4. are uninsurable children under age nineteen (19) who are 'uninsurable' as defined in rule 1200-13-12-.01.

This provision constitutes a closure of enrollment for all other applicants and supercedes any other rule provision indicating that enrollment is open for such applicants.

Authority: T.C.A. §§4-5-209, 71-5-134, Public Chapter 358, §7 of the Acts of 1993.

Rule 1200-13-12-.03 Enrollment, Disenrollment, Re-Enrollment and Reassignment shall be amended by adding a new paragraph (5), which reads as follows:

- (5) Effective October 1, 2001, enrollment of additional persons in the TennCare and TennCare Partners programs shall only be permitted pursuant to 1200-13-12-.02(2)(d)1, 1200-13-12-.02(4)(d), 1200-13-12-.02(1)(q).

Authority: T.C.A. §§4-5-209, 71-5-134, Public Chapter 358, §7 of the Acts of 1993.

The Public Necessity Rules set forth herein were properly filed in the Department of State on the 28th day of September, 2001, and will be effective from the date of filing for a period of 165 days. The Public Necessity Rules will remain in effect through the 12th day of March, 2002. (09-31)

**DEPARTMENT OF HEALTH - 1200
BUREAU OF HEALTH SERVICES ADMINISTRATION
DIVISION OF GENERAL ENVIRONMENTAL HEALTH**

STATEMENT OF NECESSITY REQUIRING PUBLIC NECESSITY RULES

The rules are to comply with Public Chapter 336 (2001). The chapter requires that not later than ninety (90) days after the effective date of the law for rulemaking purposes, the Commissioner shall promulgate public necessity rules. The Legislature mandated that the Department of Health shall have authority to establish rules, forms, and any necessary standards and procedures to implement licensure of body piercing technicians, permitting and inspection of body piercing establishments, as well as regulating body piercing procedures.

For complete copies of the text of the notice, please contact Richard E. Cochran, Director, Division of General Environmental Health, 6th Floor, Cordell Hull Building, 426 5th Avenue, North, Nashville, TN 37247-3901, telephone 615-741-7206.

Wendy J. Long, M.D.
Assistant Commissioner
Department of Health

**PUBLIC NECESSITY RULES
OF THE
DEPARTMENT OF HEALTH
BUREAU OF HEALTH SERVICES
ADMINISTRATION DIVISION OF GENERAL ENVIRONMENTAL HEALTH**

**CHAPTER 1200-23-6
BODY PIERCING**

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1200-23-6-.01 DEFINITIONS

- (1) "Antibacterial" means a substance that inhibits and reduces the growth of bacteria.
- (2) "Antibacterial solution" means any solution used to retard the growth of bacteria approved for the application to human skin and includes all products so labeled.
- (3) "Antiseptic" means a substance that will inhibit the growth and development of microorganisms without necessarily destroying them.

- (4) “Antiseptic technique” means to render or maintain free from infectious material.
- (5) “Approval” means written approval from the department of health indicating that the body piercing establishment has been inspected and meets all terms of this part and the applicable rules.
- (6) “Autoclave” means a device which automatically holds the temperature, pressure, and time for the purpose of sterilization.
- (7) “Autoclave indicator” means chemical detection strips, markers, or tape.
- (8) “Biohazardous waste” means “regulated waste” (see definition No. 57).
- (9) “Blood” means human blood, human blood components, and products made from human blood.
- (10) “Bloodborne pathogens” means pathogenic microorganisms present in human blood that can cause disease in humans. These pathogens include, but are not limited to, Hepatitis B virus (HBV) and human immunodeficiency virus (HIV).
- (11) “Body piercing” means the piercing of any part of the body for compensation by someone, other than a physician licensed under Title 63, who utilizes a needle or other instrument for the purpose of inserting an object into the body for non- medical purposes; body piercing includes ear piercing, except when the ear piercing procedure is performed with an ear piercing gun.
- (12) “Body piercing establishment” means any place, whether temporary or permanent, stationary or mobile, wherever situated, where body piercing is performed, including any area under the control of the operator.
- (13) “Body piercing operator” or “operator” means a person who controls, operates, conducts, or manages a body piercing establishment, whether the operator is actually engaging in body piercing or not.
- (14) “Body piercing establishment permit” or “permit” means the issuance of a written permit by the department to a body piercing establishment stating that such establishment, after inspection, was found to be in compliance with this part.
- (15) “Body piercing service” or “body piercing procedure” means the service performed or the procedure utilized for body piercing.
- (16) “Body piercing technician” or “technician” means a person at least eighteen (18) years of age who engages in the practice/service of body piercing, regardless of the type of body ornament utilized or body area to be pierced.
- (17) “Body piercing technician license” means the issuance of a state license authorizing the person named therein to engage in the practice/service of body piercing after fulfilling the requirements of this part.
- (18) “Business” means any entity that provides body piercing services or procedures for compensation.
- (19) “Chemical detection strips, markers or tape” means the use of detection devices placed on items for sterilization to facilitate in determining that the item has been subjected to steam sterilization process.
- (20) “Commissioner” means the Commissioner of the department of health or the Commissioner’s duly authorized representative.

- (21) "Contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.
- (22) "Contaminated laundry" means laundry which has been soiled with blood or other potentially infectious materials or which may contain sharps.
- (23) "Contaminated sharps" means any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, or broken glass.
- (24) "Critical item(s)" means those aspects of operation or conditions which, if in violation, constitute the greatest hazards to health and safety, including imminent health hazards.
- (25) "Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.
- (26) "Department" means the department of health.
- (27) "Disinfectant" means a solution intended to destroy or inactivate specific viruses, bacteria, or fungi on clean, inanimate surfaces [e.g., 1:10 bleach solution] or commercially labeled disinfectant.
- (28) "Disinfecting" means a process that kills or destroys nearly all disease-producing micro-organisms, with the exception of bacterial spores.
- (29) "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.
- (30) "Engineering controls" mean controls (e.g., sharps disposal containers) that isolate or remove the bloodborne pathogens hazard from the workplace.
- (31) "Exposure incident" means a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.
- (32) "Extensively remodeled" means alteration to affect the increase or decrease of floor space or the alteration of walls in a work area.
- (33) "For compensation" shall include an instance in which the body piercing procedure is performed without charge, when the customer buys the body piercing ornament/jewelry or is required to provide other compensation, as well as normal payment for the procedure.
- (34) "Germicide" means an agent that kills pathogenic microorganisms.
- (35) "Germicidal solution" means any solution which destroys microorganisms and is so labeled.
- (36) "Handwashing facilities" means a facility providing an adequate supply of running potable water, soap dispenser, soap, and single use towels or automatic dryer.
- (37) "Imminent health hazard" means any condition, deficiency, or practice, as identified by the health officer, which, if not corrected, is very likely to result in illness, injury, or loss of life to any person.
- (38) "Infectious waste" means "regulated waste" (see definition No. 57).

- (39) "Law" means any applicable provision of the State of Tennessee statutes and rules of any department or agency.
- (40) "License" means the issuance of a license to perform body piercing to any individual. "License" further means to allow or authorize any person who has satisfactorily completed all requirements set forth by law and these rules to engage in the practice or business of body piercing.
- (41) "Minor" means an individual under the age of eighteen (18).
- (42) "Microbiological monitoring for quality control" means the use of a standard spore, *Bacillus stearothermophilus*, to challenge the sterilization process.
- (43) "Occupational exposure" is synonymous with "exposure incident" (see definition No. 31).
- (44) "Operator/Owner" means any person, firm, company, corporation or association that owns, controls, operates, conducts, or manages a body piercing establishment.
- (45) "Other potentially infectious material" means the following human body fluids: semen, vaginal secretions, saliva, and any body fluid visibly contaminated with blood.
- (46) "Parenteral" means piercing mucous membranes or the skin barrier through such events as needle sticks, human bites, cuts, and abrasions.
- (47) "Patron" means a person requesting and receiving body piercing services.
- (48) "Percutaneous" means infectious materials may enter the body through compromised skin surfaces (e.g., needle sticks, acne, cuts, lesions).
- (49) "Permit" means body piercing establishment permit (see definition 14).
- (50) "Person" means operator and/or any individual, partnership, firm, corporation, or agency.
- (51) "Personnel" means the permit holder, any person who body pierces, individuals having supervisory or management duties, or any other person employed or working in a body piercing establishment. This individual may or may not be a body piercing technician.
- (52) "Person in charge" means the individual present in a body piercing establishment who is the apparent supervisor at the time of inspection, or, if no individual is the apparent supervisor, then any employee present.
- (53) "Personal protective equipment" means specialized clothing or equipment, such as gloves or lapcloth, worn by an employee for protection against a hazard. General work clothes not intended to function as protection against a hazard are not considered to be personal protective equipment.
- (54) "Pierce" or "piercing" means body piercing (see definition No. 11).
- (55) "Premises" means the physical location of an establishment which offers and performs body piercing services.
- (56) "Potable water" means water that is safe for drinking.
- (57) "Proof of age" means a driver's license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid.

- (58) "Regulated waste" means liquid or semi-liquid blood or other potentially infectious materials, contaminated items that would release blood, or other potentially infectious materials in a liquid or semi-liquid state, if compressed, and contaminated sharps.
- (59) "Safe materials" means articles manufactured and used in accordance with law.
- (60) "Sanitary" means clean and free of agents of infection.
- (61) "Sanitization" means an effective germicidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the microorganism level, including pathogens, to a safe level on utensils and equipment.
- (62) "Sewage" means human excreta, all water carried waste, and household wastes from residences, buildings, or commercial and industrial establishments.
- (63) "Single use" means a disposable item that is used one (1) time on one (1) patron and then is properly disposed of by appropriate measures.
- (64) "Solid waste" means refuse, garbage, trash, rubbish, and any other item(s) which could cause an unsanitary condition or undesirable health and safety conditions.
- (65) "Sterilization" means holding in an autoclave for fifteen (15) minutes at fifteen (15) pounds of pressure and at a temperature of two hundred and fifty (250) degrees Fahrenheit or one hundred and twenty-one (121) degrees Celsius.
- (66) "Sterilize" means a process by which all forms of microbial life, including bacteria, viruses, spores, and fungi are destroyed.
- (67) "Universal precautions" means that all blood and body fluids are treated so as to contain all blood borne pathogens and taking proper precautions to prevent the spread of any blood borne pathogens.
- (68) "Utensil" means any implement, tool, or other similar device used in the storage, preparation, operation, or body piercing process.
- (69) "Waste" means solid waste, sewage, blood and body fluids or other waste resulting from the operation of a body piercing establishment.
- (70) "Work area" means an area where the act of body piercing takes place.
- (71) "Work practice controls" means controls that reduce the likelihood of exposure by altering the manner in which a task is performed.
- (72) "Work station" means a work area (see definition No. 69).

Authority: T.C.A. §§4-5-202, 62-38-301 et seq., and 68-2-609.

1200-23-6-.02 PROHIBITED ACTS

- (1) No person under the age of eighteen (18) years shall perform a body piercing procedure on another person.

- (2) No person shall perform a body piercing procedure on another person who is under the influence of drugs or alcohol.
- (3) No person shall perform a body piercing procedure on an individual who is under eighteen (18) years of age, unless the parent, legal guardian, or legal custodian is present and written consent has been given by the individual's parent, legal guardian, or legal custodian in accordance with paragraph 1200-23-6-.03. However, the provisions of this subsection shall not apply to an individual who has been emancipated by marriage or by a court order directly pertaining to body piercing.
- (4) No person shall pierce any site in which the skin surface exhibits any evidence of unhealthy conditions.
- (5) No person shall perform a body piercing procedure without a current body piercing technician license.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.03 CONSENT AND BODY PIERCING OF MINORS

- (1) No person shall perform a body piercing procedure on an individual who is under eighteen (18) years of age, unless written consent has been given by the individual's parent, legal guardian, or legal custodian in accordance with this section. However, the provisions of this section shall not apply to an individual who has been emancipated by marriage or by a court order directly pertaining to body piercing.
- (2) Emancipated individuals must present the marriage license or a copy of the court order and another form of identification at the time of the body piercing procedure.
- (3) A parent, legal guardian, or legal custodian of an individual under age eighteen (18) who desires to give consent to a business for performance of a body piercing procedure on the individual under the age of eighteen (18) shall do all of the following:
 - (a) appear in person at the business at the time the procedure is performed;
 - (b) produce proof of age of the attesting individual; and
 - (c) sign a form provided by the business that:
 1. states the minor's gender and age in years. (For minors less than one (1) year old, the age in months up to and including twelve (12) months of age shall be stated);
 2. explains the manner in which the procedure will be performed and the methods for proper care of the affected body area following performance of the procedure; and
 3. requires signing of a statement with the exact wording as follows:

"I, the undersigned, certify that I am the parent, legal guardian, or legal custodian of the named minor and further give consent to the body piercing procedure(s) as explained. I acknowledge that I am fully aware that to falsify my legal standing as to being the minor's parent, legal guardian or legal being constitutes a Class C misdemeanor. A Class C misdemeanor means imprisonment for not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00) or both. (T.C.A. 40-35-111)."
- (4) Records of body piercing procedures performed on minors shall be maintained by the operator for two (2) years. A

copy of all paperwork on an individual under age eighteen (18) shall be forwarded to the department within thirty (30) business days following performance of the body piercing procedure, and the department shall retain such paperwork for two (2) years. This paperwork shall include, but not be limited to:

- (a) the signed document that explains the manner in which the procedure was performed and the methods for proper care;
 - (b) a copy of the proof of age of the attesting individual; and
 - (c) the signed statement that the individual is the minor's parent, legal guardian, or legal custodian, that provides permission to perform a body piercing procedure on a minor and that stipulates that the attesting individual understands the consequences for falsifying their legal standing as to being the parent, legal guardian, or legal custodian.
- (5) Unless consent has been given in accordance with 1200-23-6-.03(3), no individual who is under age eighteen (18) shall obtain or attempt to obtain a body piercing procedure.
 - (6) No individual shall knowingly show or give false information concerning the individual's name, age, or emancipation.
 - (7) No individual shall knowingly show or give any false information as to the name, age, or other identification of an individual who is under age eighteen (18) for the purpose of obtaining a body piercing procedure for the individual who is under age eighteen (18).
 - (8) No individual shall impersonate the parent, legal guardian, or legal custodian of an individual who is under age eighteen (18) for the purpose of obtaining a body piercing procedure for the individual who is under age eighteen (18).
 - (9) The operator shall require proof of age for any patron under the age of twenty-seven (27), and the operator shall retain a copy of the patron's proof of age in the files of the business for a period of two (2) years from the time of the body piercing procedure.
 - (10) It shall constitute a Class C misdemeanor for a violation of 1200-23-6-.03(7) by an individual over the age of seventeen (17) who impersonates a parent, legal guardian, or legal custodian.

Authority: *T.C.A. §§4-5-202 and 62-38-101 et seq.*

1200-23-6-.03 MINIMUM STANDARDS FOR BODY PIERCING ESTABLISHMENTS

- (1) **Submission of Plans.** Whenever a body piercing establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a body piercing establishment, at least one set of properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Commissioner for review and approval at least thirty (30) days before construction, remodeling, or conversion is begun. The plans and specifications shall indicate:
 - (a) the total area in square feet to be used for the business;
 - (b) all entrances and exits;
 - (c) the number, location and types of plumbing fixtures;

- (d) source of water supply;
 - (e) the lighting plan;
 - (f) the floor plan identifying the general layout of work areas, to include fixtures and equipment; and
 - (g) a list of proposed fixed body piercing equipment and facilities;
- (2) The Commissioner shall approve the plans and specifications, if they meet the requirements of these Rules.
 - (3) No body piercing establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Commissioner.
 - (4) Pre-Operational Inspection. After plans and specifications have been approved by the Commissioner, the body piercing establishment shall not start operations until the Commissioner has made a pre-operational inspection and has determined compliance with the approved plans and specifications and with the requirements of these Rules.
 - (5) Each business where body piercing procedures are performed shall provide a work area separate from observers or visitors.
 - (6) A work area shall have a sink equipped with hot and cold running water for handwashing and cleaning instruments, apart from a bathroom sink, which is conveniently available.
 - (7) The use of common towels is prohibited. Handsinks shall be equipped with a soap dispenser and single-use towels.
 - (8) Each body piercing establishment shall be equipped with an autoclave or steam sterilizer, a sterilizing device capable of meeting sterilization as defined in 1200-23-6-.01(64). The autoclave shall be used to sterilize all nondisposable or reusable body piercing equipment.
 - (9) Each location shall have the facilities to properly dispose of all waste material. All materials (e.g., needles) must be disposed of in accordance with the Code of Federal Regulations, Title 29, Part 1910, Occupational Safety and Health Act, Bloodborne Pathogens and/or accepted universal precaution guidelines.
- (10) Water Supply.
 - (a) Enough potable water for the needs of the body piercing establishment shall be provided from a source constructed and operated according to law.
 - (b) Sewage. All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewerage disposal system constructed and operated according to law.
 - (c) Plumbing. Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any other water supply or other source of contamination.
 - (11) Toilet Facilities.
 - (a) Toilet installation. Toilet facilities shall be designed, installed, and maintained according to law. There shall be sufficient toilet rooms and/or toilet fixtures to accommodate patrons, and employees, and operators.

- (b) Toilet rooms. Toilet rooms opening directly into work or customer waiting areas shall be completely enclosed and shall have tight-fitting, solid doors, which shall be closed except during cleaning or maintenance.
 - (c) Toilet fixtures. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue on tissue holders shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms shall have at least one covered waste receptacle.
- (12) Lavatory Facilities.
- (a) Lavatory installation. Lavatory facilities shall be designed, installed, and maintained according to law. Facilities shall be of sufficient number and location to permit convenient use by patrons, and employees, and operators.
 - (b) Lavatory faucets. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.
 - (c) Lavatory supplies. A soap dispenser and a supply of antiseptic, hand-cleaning soap or detergent shall be available at each lavatory. A supply of single-use sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.
 - (d) Lavatory maintenance. Lavatories, soap dispensers, hand-drying devices, and all related fixtures shall be kept clean and in good repair.
- (13) Solid Waste
- (a) Containers.
 - 1. Garbage and refuse shall be kept in durable, easily cleaned containers that do not leak and do not absorb liquids. Containers shall be kept in a clean and sound condition and all garbage and refuse disposed of according to law.
 - 2. Containers used in work areas shall be kept covered when not in use and after they are filled.
 - 3. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulate.
 - (b) Garbage and refuse shall be disposed of at such frequency as to prevent the development of odor and the attraction of insects, rodents, or vermin.
 - (c) Disposal of potentially infectious waste such as blood, fluids, used inks, or other liquid waste may be deposited directly into a drain connected to a sanitary sewer system. Disposable needles, scalpels, or other sharp items shall be placed intact into puncture-resistant sharps containers with a biohazard label before disposal. Filled sharps containers shall be considered regulated waste and must be disposed of in accordance with Solid Waste Processing and Disposal Regulations (1200-1-7).
 - (d) Waste potentially contaminated with small amounts of blood or other infectious body fluids (e.g., gauze, wipes, disposable lap cloths), which do not meet the definition of regulated waste, shall be double-bagged in sealed, impervious bags to prevent leakage of the contained items. These bags shall be of sufficient strength to prevent breakage or leakage and shall not contain any sharps. The waste bags shall be containerized and disposed of in an approved sanitary landfill.

- (14) The premises shall be kept in such condition as to prevent the entrance, harborage, or feeding of insects, rodents, or vermin.
- (15) Floors
- (a) Floor construction. Floors and floor coverings of all work areas, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth, nonabsorbent, durable material and maintained in good repair. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is allowed in work areas, dressing rooms, and locker rooms. Carpeted flooring around the operating chair and work table in the work area must be covered by vinyl or rubber sheeting or mats so as to preclude any absorption of spillage that may occur during the body piercing operation.
 - (b) Mats. Mats shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleanable.
- (16) Walls and Ceilings
- (a) Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures shall be constructed of smooth, nonabsorbent, durable material and be maintained in good repair.
 - (b) Attachments. Light fixtures, vent covers, wall-mounted fans, and similar equipment attached to walls and ceilings shall be easily cleanable and maintained in good repair.
- (17) Physical Facilities. Floors, mats, walls, ceilings, and attached equipment and decorative materials shall be kept clean.
- (18) Lighting
- (a) Permanently fixed artificial light sources shall be installed to provide at least fifty (50) foot-candles of light on all work area surfaces and at equipment washing work levels.
 - (b) Permanently fixed artificial light sources shall be installed to provide at a distance of thirty (30) inches from the floor at least ten (10) foot candles of light in all other areas.
- (19) Ventilation. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes.
- (20) Living areas. No operation of a body piercing establishment shall be conducted in any room used as living or sleeping quarters.
- (21) Poisonous or Toxic Materials
- (a) Materials permitted. There shall be present in the body piercing establishment only those poisonous or toxic materials necessary for maintaining the establishment and cleaning or sanitizing equipment, as well as controlling insects and rodents.
 - (b) Labeling of materials. Containers of poisonous or toxic materials shall be prominently and distinctly labeled for easy identification of contents.
 - (c) Toxic items shall be separated from other forms of materials used in the process of body piercing.

(22) Premises

- (a) Body piercing establishments shall be kept neat, clean, and free of litter and rubbish.
- (b) Only articles necessary for the operation and maintenance of the body piercing establishment shall be stored on or within the establishment.

(23) Animals. Live animals of all species shall be excluded from within the body piercing work area and from adjacent areas within the facility under the control of the permit holder. However, this exclusion does not apply to fish in an aquarium. Service animals accompanying blind or deaf persons shall be permitted in the establishment.

(24) Equipment and Utensils

(a) Materials

- 1. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; they shall be corrosion resistant and nonabsorbent; and they shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, and safe materials.
- 2. Re-use of single service articles is prohibited.

(b) Design and Fabrication

- 1. General. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, and chipping.
 - (i) Body piercing operational surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, as well as free of difficult-to-clean internal corners and crevices.
 - (ii) Sinks and drain boards shall be self-draining.
- 2. Surfaces of equipment not intended as operational surfaces, but which are exposed to splash or debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices and readily accessible for cleaning. Such surfaces shall be constructed of such material and in such repair as to be easily maintained in a clean and sanitary condition.
- 3. Needles and other equipment used in body piercings shall be designed and manufactured for the sole purpose of piercing the skin.

(25) Aisles and working spaces. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of equipment or of operational surfaces by clothing or personal contact.

(26) Work Area. The work room is to be continually equipped or stocked with the following materials:

- (a) a minimum of six (6) sterilized piercing needles;
- (b) a minimum of one extra package of disposable towels other than the package that is being used;

- (c) a minimum of one extra box of disposable gloves other than the box being used; and
- (d) an extra supply of bandages, ointment or gel, and antibacterial soap.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.04 BODY PIERCING PROCEDURES

- (1) Universal precautions, as defined in these rules, shall be observed to prevent contact with blood or other potentially infectious materials. Body piercing technicians and operators shall be trained in universal precautions.
 - (a) Assume all human blood, plasma, serum, body fluids (semen, saliva, breast milk, vaginal secretions and any fluid contaminated with blood) and tissues to be contaminated with Human Immunodeficiency Virus (HIV) and/or Hepatitis viruses (e.g., HBV).
 - (b) The most susceptible route of occupational infection for HIV and HBV is by accidental needle sticks, contamination of the mucous membranes, or through broken, abraded, or irritated skin. Use appropriate caution and maximum protection to prevent such contact.
 - (c) Proper decontamination procedures, emergency biohazard spill management, and proper use of biosafety equipment shall be utilized.
 - (d) Use aseptic technique. Thorough hand washing is essential after patron contact, after handling blood and body fluids, after wearing gloves, and prior to exiting the work area.
 - (e) Needles shall be sterilized prior to use. Due to the hollow nature of body piercing needles, it is not permissible to reuse needles, non-disposable or otherwise, for body piercing.
 - (f) Dispose of needles and other sharps in puncture proof, autoclavable containers, or disposable biohazard containers.
 - (g) All regulated wastes shall be disposed of in labeled, manufacturer's color-coded waste containers.
 - (h) A spill kit (bleach, leak proof container, paper towels, gloves, spray bottle) is to be used to clean up potentially infectious material spills. Small spills can be wiped up, after donning protective gloves, with paper towels and sprayed with freshly made ten percent (10%) bleach solution.
 - (i) Clean all work areas and equipment used in handling human biohazardous materials with proven disinfectant (e.g., 10% dilution of bleach) when concluding work to protect personnel from accidental infection.
 - (j) Eating, drinking, smoking, inserting contacts, and applying cosmetics or lip balm are not permitted in the work area. Food shall be stored in cabinets or refrigerators designated and used for this purpose only. Food storage cabinets or refrigerators shall be located outside the work area.
 - (k) All procedures shall be performed carefully to minimize the creation of aerosols.
 - (l) Report all work related accidents, incidents, and unexplained illness to the body piercing establishment supervisor, operator, and/or physician immediately.

- (m) Used gloves shall be removed after each operation and prior to contacting work surfaces, door knobs, wall switches, or telephones. Dispose of used gloves in a bagged, trash container.
- (n) The operator shall maintain written records of operational equipment utilized by the business, including manufacturers, model numbers, and dates of acquisition or purchase.

(2) Body Piercing Establishment Personnel

- (a) The body piercing establishment operator shall make available, at no cost to the personnel, Hepatitis B vaccination series, as well as any routine booster dose(s) to every person who may have occupational exposure to blood or other potentially infectious material. For new personnel the vaccine shall be made available within ten (10) working days of initial work assignment.
- (b) Personnel who decline to accept the Hepatitis B vaccination series must sign a form indicating their refusal.
- (c) The outer clothing of all personnel shall be clean.
- (d) Body piercing technicians/operators shall wash their hands with antiseptic soap before and after treating each patron (i.e., before glove placement and after glove removal) and after barehanded touching of inanimate objects likely to be contaminated by blood, saliva, or respiratory secretions. Hands shall be washed after removal of gloves, smoking, eating, drinking, or using the toilet.
- (e) Body piercing technicians/operators who have exudative lesions or weeping dermatitis, particularly on the hands, shall refrain from all direct patron contact and from handling equipment until the condition resolves.
- (f) Personnel shall consume food only in approved, designated areas. There shall be no eating or drinking in the work area of the establishment.
- (g) Personnel shall not use tobacco in any form while engaged in the operation or process of body piercing a patron, nor while in areas used for equipment or utensil washing. Personnel shall use tobacco only in approved, designated areas.
- (h) Personnel shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in body piercing establishments.

(3) Implementation of infection-control practices

- (a) Disposable latex or vinyl examination gloves shall be worn by a technician at all times while performing a body piercing. Gloves shall be changed and properly disposed of each time there is an interruption in the body piercing process, or whenever their ability to function as a barrier is compromised. Gloves shall be changed between patrons and used gloves shall be properly disposed of as provided in these rules.
- (b) Only sterilized equipment or single use supplies, such as disposable razors, single use towels or wipes, lubricants from a collapsible tube, may be used to perform a body piercing. After the piercing procedure, single use items and containers shall be discarded and the work area disinfected.
- (c) When it is necessary to shave the area for the piercing, a new blade for each patron or customer shall be used when a safety razor is employed, and the permanent part of such razor shall be disinfected. If a straight razor is used, it shall be cleaned with soap and water, rinsed in clear water, and then sterilized in an autoclave.

- (d) A sterile set of needles shall be used for each patron.
 - (e) Piercing equipment, with the exception of hollow bore needles, shall be sealed for individual patron use in autoclave bags with a chemical or autoclave indicator and date (month and year) of sterilization clearly visible. After piercing, used non-disposable instruments shall be kept in a separate, puncture resistant container until properly cleaned, disinfected, and sterilized using universal precautions and recognized medical methods.
 - (f) Microbiological monitoring for adequate functioning of each autoclave will be done at least weekly using a commercial source of *Bacillus stearothermophilus* which is then tested in an accredited commercial laboratory. All laboratory reports will be logged and kept for two (2) years and shall be available for inspection.
 - (g) Upon notification of a positive microbiological monitoring report (detection of viable spores), the sterilizer shall be immediately checked for proper use and function. A repeat test shall be performed within three (3) days. Upon a subsequent positive result from a repeat test, discontinue use of the sterilizer until properly serviced and a negative result is obtained.
 - (h) Sterilizer indicator tape and/or sterilizer bags with indicator tape areas which change color will be used with all items sterilized to indicate the item has been autoclaved. All items shall be marked with the date of sterilization.
 - (i) Sterilized items in the sealed, autoclaved bags shall be stored in a clean, dry place, until used, for no more than one (1) year.
 - (j) Sterilization indicators must change color or discontinue use of autoclave until a negative spore sample is obtained.
 - (k) The body piercing establishment shall be exempt from the requirement for an autoclave in cases where there is only the use of manufactured, pre-sterilized single use, preassembled needles and similar body piercing equipment, and/or the use of no other equipment or tools requiring sterilization.
 - (l) Permanent ink pens or similar equipment shall not be reused, between patrons, to mark the location of piercings on the interior of the nose, mouth, male or female genital areas, mucous membranes, or similar interior cavities.
- (4) Body Piercing Minimum Standards
- (a) Prior to piercing the area to be pierced, or if the area does not need to be shaved, the piercing site shall be cleaned with soap and water, rinsed with clean water, and germicidal solution applied or wiped with alcohol in a sanitary manner before beginning the procedure.
 - (b) Single-use towels or gauze shall be used in preparing the piercing site and shall be disposed of after use on each patron or customer.
 - (c) Records showing the date of the patron's visit, printed name, signature, address, and age, piercing location on the body, and piercing technician's name shall be kept on the establishment premises for a minimum of two (2) years.
 - (d) After each piercing, written instructions shall be given to each patron or customer on the care of the skin of the pierced site to prevent infection. A copy of these instructions shall be posted in a conspicuous place in the establishment, clearly visible to the customer or patron being pierced. These instructions

shall include, but are not limited to, bandaging, cleaning, sun exposure, scratching, and wearing of clothing over or around the pierced site.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.05 ESTABLISHMENT PERMITTING AND INSPECTION SYSTEM

- (1) Application Procedures
 - (a) Any person planning to operate a body piercing establishment shall obtain a written application for a permit on a form provided by the Commissioner prior to operation. A new or initial application is required for body piercing establishments that have not previously been permitted or for instances when ownership changes.
 - (b) The Commissioner shall issue a body piercing establishment permit:
 1. upon receiving a completed application with applicable fees; and
 2. after an inspection of the proposed facility reveals that the facility is in compliance with requirements of these rules and law.
- (2) Inspection results - Reporting and Scoring
 - (a) The Commissioner shall conduct at least one (1) inspection of a body piercing establishment prior to issuing a permit to perform body piercing services.
 - (b) The Commissioner shall conduct at a minimum, an annual inspection, prior to issuing a renewal permit to operate a body piercing establishment.
 - (c) The Commissioner may inspect a body piercing establishment at any time the Commissioner deems necessary and shall be given access to the premises and to all records deemed relevant by the Commissioner for the inspection.
 - (d) Inspection results for body piercing establishments shall be recorded on standard departmental forms which summarize the requirements of the law and rules and regulations.
 - (e) The scoring system shall include a weighted point value for each requirement in which critical items are assigned values of either four (4) or five (5) points, with less critical items having assigned values of either one (1) or two (2) points.
 - (f) The rating score of the facilities shall be the total of the weighted point values for all violations subtracted from one hundred (100).
- (3) Critical violations shall include the following:
 - (a) autoclave does not meet minimum time, pressure or temperature requirements;
 - (b) lack of a weekly negative spore or microbiological monitoring test for quality control;
 - (c) nondisposable tubes and needles are not sterilized or were sterilized greater than one (1) year ago;

- (d) work room is not equipped or stocked as required;
 - (e) reuse of single use articles;
 - (f) sterile instruments are not properly handled;
 - (g) reusable instruments are not handled properly;
 - (h) employees with infectious lesions on hands not restricted from body piercing;
 - (i) employees not practicing proper cleanliness and good hygiene practices;
 - (j) water supply not approved, hot and cold running water under pressure not available;
 - (k) approved sewage and liquid waste disposal not available;
 - (l) cross connection allowing back-siphonage present in plumbing system;
 - (m) toilet and hand washing facilities not available for employees;
 - (n) insect and rodent evidence, harborage, or outer opening present; and
 - (o) toxic items not properly stored, labeled, or used.
- (4) Violation Correction
- (a) The inspection report shall state that failure to comply with any time limits specified by the Commissioner for correction may result in cessation of operation. All critical and minor violations shall be corrected within seven (7) and fourteen (14) calendar days, respectively.
 - (b) Review of a citation of a violation of a minor item may be sought, upon submission of a written request to the Director of General Environmental Health which must be received within ten (10) calendar days following the date of the inspection report. If the tenth (10th) day falls on a weekend or state holiday, the first work day following shall be treated as the tenth (10th) day. The request for review shall identify the non-critical item(s) for which review is sought. The final determination shall be made by the Director or the Director's Designee in writing and within a reasonable time after receipt of the request for a review.
 - (c) The citation of a violation of a critical item may also be reviewed upon the receipt of a written request submitted to the Director of General Environmental Health within ten (10) calendar days following the date of the inspection report. If the tenth (10th) day falls on a weekend or state holiday, the first work day following shall be treated as the tenth (10th) day. The request for review shall identify the critical item(s) for which review is being sought. The decision of the Director or the Director's Designee shall be final and made in writing within a reasonable time after receipt of the request for a review.
 - (d) Upon declaration of an imminent health hazard by the Local Health Officer, the Local Health Officer shall issue an order requiring the facility to immediately cease operations until authorized to reopen following notice and opportunity for a hearing as provided in T.C.A.68-2-608.
 - (e) In the case of temporary body piercing establishments, all violations shall be corrected within twenty-four (24) hours. If violations are not corrected within twenty-four (24) hours, the establishment shall immediately cease operation until authorized to resume by the Local Health Officer. Upon declaration of

an imminent health hazard by the Local Health Officer, the Local Health Officer shall issue an order requiring the facility to immediately cease operations until authorized to reopen following notice and opportunity for a hearing as provided in T.C.A. 68-2-608.

- (f) In the event of an order of cessation of operation, a request for a hearing may be made in writing to the Commissioner postmarked or received within ten (10) calendar days of the order. A hearing shall be afforded, if requested, as promptly as is reasonable under the circumstances.
- (5) Permit Suspension or Revocation
 - (a) After providing notice and an opportunity for a hearing in accordance with the Uniform Administrative Procedures Act (T.C.A. 4-5-301 et seq.), the Commissioner may suspend or revoke a permit for violation of requirements of this part or for interference with the Commissioner's authorized representative in the performance of their duty. The violation of three (3) or more critical items within a twelve (12) month period may result in revocation of the body piercing establishment permit.
 - (6) License Suspension or Revocation
 - (a) After providing notice and an opportunity for a hearing in accordance with the Uniform Administrative Procedures Act (T.C.A. 4-5-301 et seq.), the Commissioner may suspend or revoke a body piercing technician's license for violation of requirements of this part or for interference with the Commissioner's duly authorized representative in the performance of their duty.
 - (7) When a body piercing technician's license is revoked by the Commissioner, a new license may be issued upon compliance with all requirements of the order of revocation, and upon meeting all requirements for a new license and the submission of a new application with applicable fees.
 - (8) Whenever an establishment is required under these rules to cease operations, it shall not resume operations until it is shown on re-inspection that conditions responsible for the order to cease operations no longer exist. The Commissioner shall offer an opportunity for re-inspection within a reasonable time.

Authority: T.C.A. §§4-5-202, 4-5-301, 62-38-301 et seq., 68-2-608, and 68-2-609.

1200-23-6-.06 BODY PIERCING TECHNICIAN OR OPERATOR LICENSING

- (1) Body Piercing Technician
 - (a) On and after January 1, 2002, no person shall perform a body piercing procedure without being licensed as a body piercing technician.
 - (b) Any applicant for a body piercing technician's license who was not in business in Tennessee or operating in Tennessee prior to January 1, 2002, shall be required to apprentice or train in the profession of body piercing as set out at 1200-23-6-.06(e).
 - (c) In order to obtain a Tennessee license, out-of-state body piercing technicians must show proof of at least two(2) years experience as a professional body piercing technician in another state.
 - (d) For purposes of the above subparagraphs (b) and (c), proof of business or experience may be a copy of a business license, another state's technician's license, tax records, or other similar city, county, state, or federal documents which show the prospective applicant as having been in business or operation. The Commissioner shall have final approval on any and all forms of documentation submitted as evidence or proof.

- (e) Any individual not meeting the requirements set out at 1200-23-6-.06(1)(b)-(d) above shall be required to apprentice or train in the profession of body piercing. Such training shall be for a minimum of one (1) year under a currently licensed body piercing technician.
- (2) Each applicant for a body piercing establishment permit (i.e., the body piercing operator) and/or for a body piercing technician license shall undergo a training program before receiving a permit or license. In addition, the body piercing operator must ensure that each apprentice technician shall undergo a training program before beginning apprenticeship. The training shall include at least one of the following:
 - (a) the Alliance of Professional Tattooist course in sterilization;
 - (b) a course approved by the Commissioner in methods and techniques for the proper sterilization of instruments and materials used in body piercing; or
 - (c) present acceptable evidence of having satisfactorily completed an approved course of instruction in sterilization techniques and methods through a college medical sterilization course.
- (3) Each applicant for a body piercing establishment permit (i.e., the body piercing operator) and/or for a body piercing technician's license shall be required to take and pass an examination concerning bloodborne pathogens, sterilization techniques and the provisions of T.C.A. Title 62, Chapter 38 before a permit or license shall be issued. In addition, the body piercing operator must ensure that each apprentice technician takes and passes the examination before beginning apprenticeship. Such examination shall be either a written exam prescribed by the Commissioner or documentation of a similar exam given with a course as required in 1200-23-6-.06(2) and approved by the Commissioner.
- (4) The body piercing technician license shall be issued upon proof that the applicant:
 - (a) met the requirements of 1200-23-6-.06(1);
 - (b) attended a course and passed a written examination, as specified in 1200-23-6-.06(2) and 1200-23-6-.06(3); and
 - (c) submitted an approved application with the appropriate fee.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.07 LICENSE AND PERMIT FEES

- (1) License Fees
 - (a) A body piercing technician shall be assessed an initial licensing fee and a renewal licensing fee of one hundred forty dollars (\$140.00) each. Renewal fee is due on or before January 1 of each year.
 - (b) A late penalty fee of one-half the fee amount shall be assessed on all (1) renewal technician license applications postmarked after January 31st of each permitting year or (2) a fee received more than thirty (30) days from the date of new application.
 - (c) A temporary body piercing technician shall pay a temporary license fee of fifty dollars (\$50.00).
- (2) Permit Fees

- (a) A body piercing establishment shall be assessed an initial fee and a renewal permit fee of seventy dollars (\$70.00) each. Renewal fee is due on or before January 1 of each year.
 - (b) A temporary body piercing establishment shall be assessed a temporary permit fee of fifty dollars (\$50.00).
 - (c) A late penalty fee of one-half the fee amount shall be assessed on all (1) renewal establishment permit applications postmarked after January 31st of each permitting year or (2) a fee received more than thirty (30) days from the date of any change in ownership or new application.
- (3) A new or initial application for a permit is required for body piercing establishments that have not previously been permitted or for instances when ownership changes. A permit is not transferable.
 - (4) For the purposes of determining a change of ownership of a body piercing establishment, a "person" shall include a change of ownership of the body piercing establishment by a corporation (e.g., Corporation A sells its body piercing establishment to Corporation B) or a change of ownership of a corporation which owns a body piercing establishment. If there is no change in the federal tax identification number applicable to the corporation which owns the body piercing establishment, there is no change of ownership for permit purposes.
 - (5) A new or initial application for a license is required for body piercing technicians that have not previously been licensed.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.08 LOSS OF PERMIT OR LICENSE DOCUMENT

- (1) Any body piercing technician or establishment that loses, misplaces, or destroys a permit or license shall immediately apply for a duplicate, as soon as the fact becomes apparent. The fee for the duplicate shall be three dollars (\$3.00). This fee shall accompany the application for such duplicate.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.09 GENERAL PROVISIONS

- (1) Posting of permit and License. Body piercing establishment permits and technician licenses shall be posted within the establishment in a conspicuous place where they may be readily observed by the public. This shall mean a place approved by the Commissioner at the time of inspection. No person, except an authorized representative of the Commissioner, shall modify, remove, cover up, or otherwise make the permit or license less conspicuous in any way.
- (2) Body piercing establishments and technicians who also practice tattooing as prescribed by T.C.A. 62-38-201 et seq., shall also be required to meet all the operational, licensing and permitting requirements as outlined in these rules. Where the rules or statute differ for tattooing and body piercing, the more stringent requirements shall take precedence.
- (3) Severability. If any provision or application of any provision of these rules is held invalid, that invalidity shall not affect other provisions or applications of these rules.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

The Public Necessity Rules set forth herein were properly filed in the Department of State on the 6th day of September, 2001, and will be effective from the date of filing for a period of 165 days. The Public Necessity Rules will remain in effect through the 18th day of February, 2002. (09-01)

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RULEMAKING HEARINGS

BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES - 1370 COUNCIL FOR LICENSING HEARING INSTRUMENT SPECIALISTS

There will be a hearing before the Tennessee Board of Communications Disorders and Sciences' Council for Licensing Hearing Instrument Specialists to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, and 63-17-203. 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 21st 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 1370-2-.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, 63-17-105, and 63-17-203.

Rule 1370-2-.09, Renewal of License, is amended by deleting subparagraph (1) (b) in its entirety and substituting instead the following language, and is further amended by deleting parts (1) (c) 3., (1) (c) 4., and (1) (c) 5. in their entirety, and is further amended by deleting subparagraph (1) (d) and paragraph (2) and substituting instead the following language, so that as amended, the new subparagraphs (1) (b), (1) (d), 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) (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.
 - (a) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licensure processed pursuant to Rule 1200-10-1-.10.
 - (b) Reinstatement of a license 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 1370-2-.06; and
 2. Payment of the Late Renewal fee, pursuant to Rule 1370-2-.06; and
 3. Provide documentation of successfully completing continuing education requirements for every year the license was expired, pursuant to Rule 1370-2-.12; and
 4. Provide calibration of equipment certificates for each audiometer used at his/her place of business for every year the license was expired, pursuant to Rule 1370-2-.12.; and
 5. Provide copies of bills of sale for each audiometer sold at his/her place of business for every year the license was expired, pursuant to Rule 1370-2-.12.
 - (c) License reinstatement applications hereunder shall be treated as license applications, and review and decisions shall be governed by Rule 1370-2-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-17-105, 63-17-203, and 63-17-214.

Rule 1370-2-.12, Continuing Education, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by deleting paragraphs (1), (2), (4), and (5) in their entirety and substituting instead the following language, so that as amended, the new catchline, the new paragraphs (1), (2), (4), and (5) shall read:

1370-2-.12 CONTINUING EDUCATION, CALIBRATION CERTIFICATES, AND BILLS OF SALE.

- (1) Basic Requirements:
 - (a) Continuing Education - Each licensee registered with the Council is required to successfully complete twenty (20) hours of continuing education each renewal cycle.
 - (b) Calibration Certificates - Each licensee registered with the Council is required to retain calibration of equipment certificates for each audiometer used at his/her place of business during the calendar year.
 - (c) Bills of Sale - Each licensee registered with the Council is required to retain copies of bills of sale for each audiometer sold at his/her place of business during the calendar year.

- (2) Documentation of Compliance:
- (a) Each licensee must retain documentation of completion of all requirements of this rule. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the requirements were completed. This documentation must be produced for inspection and verification, if requested in writing by the Council during its verification process.
 - (b) Acceptable continuing education documentation:
 - 1. Certificates or original letters from course providers verifying the licensee's attendance at continuing education program(s); or
 - 2. An original letter on official stationery from IHS verifying continuing education, specifying date, continuing education hours, program title.
 - (c) The individual must, within thirty (30) days of a request from the Council, provide documentation of successfully completing this rule's requirements.
- (4) Continuing Education for Reactivation of Retired, Revoked, or Expired Licensure.
- (a) Reactivation of Retired Licensure.
 - 1. An individual whose license has been retired for one (1) year or less will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reinstatement. Those hours will be considered replacement hours and cannot be counted during the next licensure renewal period.
 - 2. Any individual requesting reactivation of a license which has been retired for one or more years must submit, along with the reactivation request, verification which indicates the attendance and completion of ten (10) hours of continuing education for each year the license was retired. The continuing education hours must have been started and successfully completed within twelve (12) months immediately preceding the date of requested reinstatement.
 - (b) Reactivation of Revoked Licensure.
 - 1. 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.
 - 2. Notwithstanding the provisions of part (4) (b) 1., on written request and approval by the Council, a licensee has the option to take and pass the written and practical examination given by the Council in lieu of the continuing education requirement. The current examination fee, pursuant to rule 1370-2-.06, will be applicable.
 - (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.
 - (d) Continuing education hours obtained as a prerequisite for reactivating a license may not be counted toward the calendar year requirement.

- (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 Council 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, 63-17-105, 63-17-203, 63-17-219, and 63-17-220.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of September, 2001. (09-26)

BOARD FOR LICENSING CONTRACTORS - 0680

There will be a hearing before the Board for Licensing Contractors to considers the promulgation of amendments to rules pursuant to Tenn. Code Ann. § 62-6-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204 and will take place at the Adams Mark, 939 Ridgelake Boulevard, Memphis Tennessee 38120 at 9:00 AM Central Time on the 28th day of November, 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 to determine how it may reasonably provide such aid or service. Initial contact may be made with Verna Norris, the Department's ADA Coordinator at 500 James Robertson Parkway, Nashville, Tennessee, (615) 741-6500.

For a copy of this notice of rulemaking hearing, contact Phyllis Blevins, Executive Director, 500 James Robertson Parkway, Suite 110, Nashville, Tennessee, Department of Commerce and Insurance, (615) 741-8307.

SUBSTANCE OF PROPOSED RULES**CHAPTER 0680-1
LICENSING****AMENDMENTS TO RULES**

Rule 0680-1-.16 Appendix A of Rule 0680-1-.12 (Classifications System) MC-Mechanical Contracting is amended by deleting paragraph A in its entirety and substituting the following language, so that, as amended, paragraph A shall read:

A. Plumbing and Gas Piping

Authority: T.C.A. §§ 62-6-108 and 62-6-111.

Rule 0680-1-.16 Appendix A of Rule 0680-1-.12 (Classifications System) MC-Mechanical Contracting is further amended by deleting paragraph C in its entirety and substituting the following language, so that, as amended, paragraph C shall read:

C. HVAC, Refrigeration and Gas Piping

1. Solar HVAC

Authority: T.C.A. §§ 62-6-108 and 62-6-111.

Rule 0680-1-.16 Appendix A of Rule 0680-1-.12 (Classifications System) MC-Mechanical Contracting is further amended by adding the following language as a new paragraph J:

J. Fuel Gas Piping and Systems

Authority: T.C.A. §§ 62-6-108 and 62-6-111.

Rule 0680-1-.16 Appendix A of Rule 0680-1-.12 (Classifications System) S-Specialty is amended by adding the following language as a new paragraph:

S-Specialty/Medical Gas Piping installation, maintenance and repair work falling within the regulation of medical gas piping pursuant to Tennessee Code Annotated, Section 68-11-253.

A. Medical Gas Piping Installer Certification Requirements.

1. The minimum qualifications for board certification are the qualifications for certification established by the American Medical Gas Institute (AMGI) or the Piping Industry Progress and Education Trust Fund (PIPE). A minimum of thirty-two (32) hours of training, with eight (8) of such hours in brazing, shall be required for board certification. The board shall from time to time revise minimum qualifications for board certification to include the most current edition of NFPA 99C “Standard on Gas and Vacuum Systems”.

- (a) The minimum of thirty-two (32) hours of training for board certification as a medical gas installer shall include training in the following areas from the most current edition of NFPA 99C, Gas and Vacuum Systems:

1. Medical Gas Systems.
2. Gas Distribution Systems.

3. Installation of Pressurized Gas Systems.
 4. Vacuum Piping.
 5. Brazing Techniques for Medical Gas Systems.
 6. Requirements for Levels of Patient Care.
2. The board may designate and approve independent examining agencies, as necessary, to provide the training and examinations necessary for board certification required by Tennessee Code Annotated, Section 68-11-253. The board will review an examining agency's curriculum prior to its designation to determine compliance with the minimum qualifications listed above in A.1.(a).
 3. The board shall charge a \$5.00 application processing fee in addition to all regular contractor licensing fees for the board certification required by this rule. The designated examining agency may charge reasonable fees for training and examination as determined appropriate by the board.

Authority: T.C.A. §§ 62-6-108, 62-6-111 and 68-11-253.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of September, 2001. (09-33)

BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 4th day of January, 2002.

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 0460-1-.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 63-5-105.

Rule 0460-1-.02, Fees, is amended by deleting subparagraphs (1) (l), (2) (h), and (3) (e) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (l), (2) (h), and (3) (e) shall read:

- (1) (l) Reinstatement Fee – Payable when a licensee fails to renew licensure timely and which is paid in addition to all current and past due licensure renewal fees. \$500.00
- (2) (h) Reinstatement Fee – Payable when a licensee fails to renew licensure timely and which is paid in addition to all current and past due licensure renewal fees. \$200.00
- (3) (e) Reinstatement Fee – Payable when a registration is not timely renewed and which is paid in addition to all current and past due registration renewal fees. \$100.00

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-107, 63-5-105, and 63-5-117.

Rule 0460-1-.06, Disciplinary Actions, Civil Penalties, Procedures, Declaratory Orders, Assessment of Costs, and Subpoenas, 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, and 63-5-105.

Rule 0460-1-.10, Repealed, is amended by deleting the catchline and substituting instead the following new catchline, and is further amended by adding the following language as a new introductory sentence and as new paragraphs (1) through (7):

0460-1-.10 Clinical Techniques—Teeth Whitening. All patients receiving teeth whitening procedures shall sign a consent form that indicates the potential harmful effects to the teeth and gum tissue and such form shall become a part of the patient’s dental records.

- (1) The consent form shall include the following statement:

“Teeth whitening procedures removes the stain from the enamel. Improper or excessive use of tooth whitening materials or procedures may cause damage to the teeth and/or gums.”
- (2) A licensed dentist must perform an oral exam and prescribe the teeth whitening materials before such teeth whitening materials may be dispensed. Appropriate notations shall be entered in the patient’s records.
- (3) Teeth whitening materials shall be dispensed only by licensed dentists.
- (4) Licensed dental hygienists and registered dental assistants shall use teeth whitening materials only under the direct supervision of a licensed dentist.

- (5) Each patient who receives a home treatment kit shall receive written instructions that describe how to apply the teeth whitening materials and the frequency of applications.
- (6) The dentist shall record in the patient's records that a follow-up visit has been scheduled for the patient and shall cause an appointment to be scheduled.
- (7) Prior to issuing a follow-up home treatment kit, the dentist shall assess the patient for the effects of the treatment, including any sensitivities or damage to the tooth structure or gum tissue. Such assessment shall be documented in the patient's records.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-115

Rule 0460-2-.08, Licensure Renewal, is amended by deleting subparagraph (1) (b), part (1) (c) 1., subparagraph (1) (e), paragraph (2), and paragraph (4) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (b), part (1) (c) 1., subparagraph (1) (e), paragraph (2), and paragraph (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) 1. A completed renewal application form.
- (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) Payment of all past due renewal fees, state regulatory fees and the reinstatement fee, as established in Rule 0460—1—.02; and
 - (b) Provide documentation of successfully completing continuing education requirements for every year the license was expired, pursuant to Rule 0460-1-.05; and
 - (c) Any licensee who fails to renew licensure prior to the expiration of the second (2nd) year after which renewal is due may be required to meet other conditions as the Board may deem necessary to protect the public.
- (4) Anyone submitting a renewal form, reinstatement/reactivation application, or letter which is found to be untrue may be subject to disciplinary action as provided in T.C.A. § 63-5-124.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-5-105, 63-5-107, 63-5-117, and 63-5-124.

Rule 0460-2-.08, Licensure Renewal, is amended by deleting subparagraph (1) (d) in its entirety and renumbering the remaining subparagraph accordingly, and is further amended by deleting paragraph (3) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-5-105, 63-5-107, 63-5-117, and 63-5-124.*

Rule 0460-2-.09, Licensure Retirement and Reactivation, is amended by deleting paragraph (1) but not its subparagraphs in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) but not its subparagraphs shall read:

- (1) Licensees who wish to retain their licenses but not actively practice may avoid compliance with the licensure renewal process, continuing education and CPR requirements by doing the following:

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

Rule 0460-3-.07, Licensure Renewal, is amended by deleting subparagraph (1) (b), part (1) (c) 1., subparagraph (1) (e), paragraph (2), and paragraph (4) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (b), part (1) (c) 1., subparagraph (1) (e), paragraph (2), and paragraph (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) 1. A completed renewal application form.
- (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) Payment of all past due renewal fees, state regulatory fees and the reinstatement fee as established in rule 0460—1—.02; and
 - (b) Provide documentation of successfully completing continuing education requirements for every year the license was expired, pursuant to Rule 0460-1-.05; and
 - (c) Any licensee who fails to renew licensure prior to the expiration of the second (2nd) year after which renewal is due may be required to meet other conditions as the Board may deem necessary to protect the public.

- (4) Anyone submitting a renewal form, reinstatement/reactivation application, or letter which is found to be untrue may be subject to disciplinary action as provided in T.C.A. § 63-5-124.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-5-105, 63-5-107, 63-5-117, and 63-5-124.

Rule 0460-3-.07, Licensure Renewal, is amended by deleting subparagraph (1) (d) in its entirety and renumbering the remaining subparagraph accordingly, and is further amended by deleting paragraph (3) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-5-105, 63-5-107, 63-5-117, and 63-5-124.

Rule 0460-3-.08, Licensure Retirement and Reactivation, is amended by deleting paragraph (1) but not its subparagraphs in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) but not its subparagraphs shall read:

- (1) Licensees who wish to retain their licenses but not actively practice may avoid compliance with the licensure renewal process, continuing education and CPR requirements by doing the following:

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

Rule 0460-4-.06, Registration Renewal, is amended by deleting subparagraph (1) (b), part (1) (c) 1., subparagraph (1) (e), paragraph (2), and paragraph (4) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (b), part (1) (c) 1., subparagraph (1) (e), paragraph (2), and paragraph (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 registration online via the Internet, a renewal application form will be mailed to each individual registered by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the registrant from the responsibility of meeting all requirements for renewal.
- (1) (c) 1. A completed renewal application form.
- (1) (e) Registrants who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their registrations processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of an Expired Registration - Reinstatement of a registration that has expired may be accomplished upon meeting the following conditions:
- (a) Payment of all past due renewal fees, state regulatory fees and the reinstatement fee as established in rule 0460—1—.02; and

- (b) Provide documentation of successfully completing continuing education requirements for every year the registration was expired, pursuant to Rule 0460-1-.05; and
 - (c) Any registrant who fails to renew registration prior to the expiration of the second (2nd) year after which renewal is due may be required to meet other conditions as the Board may deem necessary to protect the public.
- (4) Anyone submitting a renewal form, reinstatement/reactivation application, or letter which is found to be untrue may be subject to disciplinary action as provided in T.C.A. § 63-5-124.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-5-105, 63-5-107, 63-5-117, and 63-5-124.

Rule 0460-4-.06, Licensure Renewal, is amended by deleting subparagraph (1) (d) in its entirety and renumbering the remaining subparagraph accordingly, and is further amended by deleting paragraph (3) in its entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-5-105, 63-5-107, 63-5-117, and 63-5-124.

Rule 0460-4-.07, Licensure Retirement and Reactivation, is amended by deleting paragraph (1) but not its subparagraphs in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) but not its subparagraphs shall read:

- (1) Registrants who wish to retain their registration but not actively practice may avoid compliance with the licensure renewal process, continuing education and CPR requirements by doing the following:

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of September, 2001. (09-28)

STATE BOARD OF EDUCATION - 0520

The State Board of Education will hold a public hearing to receive comments regarding revisions to the State Board of Education Rules, Regulations and Minimum Standards Chapter 0520-12-1. This hearing will be conducted as prescribed by Uniform Administrative Procedures Act T. C. A. § 4-5-201 et. seq., and will take place in Room 14 of the Legislative Plaza, Nashville, TN 37243 at 9 a.m. CST on November 27, 2001.

Written comments will be considered if received by noon, December 4, 2001, at the office of the State Board of Education, 9th Floor – Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243-1050.

Individuals with disabilities wishing to participate in these proceedings (or to review these files) should contact the State Board of Education 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 days prior to November 27, 2001, or the date such party intends to review such filings, to allow time to provide such aid or service. Contact Vicki Burger, ADA Coordinator, State Board of Education, 9th Floor – Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243-1050, (615) 532-3532.

For a complete copy of the entire text of this notice of rulemaking hearing, please contact Karen Weeks, State Board of Education, 9th Floor – Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 532-3528.

SUMMARY OF PROPOSED RULES

CHAPTER 0520-12-1 RULES FOR SCHOOL-ADMINISTERED CHILD CARE PROGRAMS DELETE IN ITS ENTIRETY AND REPLACE

The proposed rule is a complete revision of Chapter 0520-12-1 of the Rules, Regulations and Minimum Standards for the Governance of Tennessee Public Schools. The proposed rule is consistent with TCA 49-1-302 which stipulates that the State Board of Education through the Department of Education shall enforce standards for school-administered before and after school child care programs; child care provided by church affiliated schools as defined by TCA 49-50-801; for school-administered early childhood education programs, including Head Start and Even Start; and state approved Montessori school programs under its jurisdiction. The proposed regulations provide equivalent protection for the health, safety, and welfare of children and use the same criteria for development of such protection as are used by the Department of Human Services. The standards and regulations are not identical in all respects, but they are parallel, in a substantial manner to the child care standards and regulations promulgated by the Department of Human Services. The proposed regulations were developed by a Child Care Advisory Council, appointed by the Board, pursuant to TCA 49-1-302. The contents of this chapter include:

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0520-12-1-.01 Introduction	0520-12-1-.08	Equipment for Children
0520-12-1-.02 Definitions	0520-12-1-.09	Program
0520-12-1-.03 Basis for Approval for Licensure	0520-12-1-.10	Health and Safety
0520-12-1-.04 Legal References	0520-12-1-.11	Food
0520-12-1-.05 Procedures for Getting a License	0520-12-1-.12	Physical Facilities
0520-12-1-.06 Organization and Administration	0520-12-1-.13	Care of Children with Special Needs
0520-12-1-.07 Staff		

Authority: T.C.A. §§49-1-302, 49-10-701, and 49-50-801.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of September, 2001. (09-32)

**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 Charleston Municipal Building, City Hall, 126 Worth Street, N.E., Charleston, Tennessee on November 27, 2001 at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

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

AMENDMENTS

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

Site Number	Site Name
Bradley County (06)	
06-501	Olin Corporation Charleston, 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 27th of September, 2001. (09-25)

**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 Tennessee Department of Environment and Conservation, Chattanooga Environmental Assistance Center, Auditorium, 540 McCallie Street, Chattanooga, Tennessee 37402 on November 28, 2001, at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

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

AMENDMENTS

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

Site Number	Site Name
Hamilton County (33)	
33-508	Southern Wood Piedmont Chattanooga, 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 28th of September, 2001. (09-30)

**DEPARTMENT OF HEALTH - 1200
DIVISION OF HEALTH CARE FACILITIES**

There will be a hearing before the Board for Licensing Health Care Facilities to consider the promulgation of amendment of rules pursuant to T.C.A. §§68-11-201 et seq., and 68-11-209. 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 on the ground floor of the Cordell Hull Building located at 425 5th Avenue North, Nashville, Tennessee 37247-0508 at 9:00 a.m. C.T. on the 20th day of November, 2001.

Any individual 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 5th Avenue North, Nashville, Tennessee, Telephone 615-741-7586.

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

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-8-6
STANDARDS FOR ASSISTED CARE LIVING FACILITIES**

AMENDMENTS

1200-8-25-.07 Building Standards is amended in paragraph (25) by adding the following language as a second sentence so that as amended the paragraph shall read:

- (25) General lighting and night lighting shall be provided for each resident. Night lighting shall be equipped with emergency power.

Authority: T.C.A. §§4-5-202, 68-11-202, 68-11-204, 68-11-206 and 68-11-209.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of September, 2001. (09-24)

**DEPARTMENT OF HEALTH - 1200
BUREAU OF HEALTH SERVICES ADMINISTRATION
DIVISION OF GENERAL ENVIRONMENTAL HEALTH**

There will be a public hearing before the Department of Health, Division of General Environmental Health to receive comments concerning amendments to the Food Service Establishment Rules, pursuant to Tennessee Code Annotated, Section 68-14-303. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in Room 133, First Floor of the Cordell Hull Building located at 425 5th Avenue North, Nashville, Tennessee at 9:00 A.M. on the 27th day of November, 2001.

Any individuals with disabilities who wish to participate in these proceedings should contact the Division of General Environmental 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 Division of General Environmental Health to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator, Office of Human Resources, Tennessee Department of Health, (615) 741-7206.

For a copy of this notice of rulemaking hearing, contact: Richard E. Cochran, Division of General Environmental Health, 6th Floor Cordell Hull Building, Nashville, Tennessee 37247-3901, (615) 741-7206.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-23-6
BODY PIERCING**

TABLE OF CONTENTS

1200-23-6-.01 Definitions	1200-23-6-.05	Establishment Permitting and Inspection System
1200-23-6-.02 Prohibited Acts	1200-23-6-.06	Body Piercing Technician Licensing
1200-23-6-.03 Consent and Body Piercing of Minors	1200-23-6-.07	Licensing and Permitting Fees
1200-23-6-.03 Minimum Standards for Body Piercing Establishments	1200-23-6-.08	Loss of Permit Document
1200-23-6-.04 Body Piercing Establishment Operation	1200-23-6-.09	General Provisions

1200-23-6-.01 DEFINITIONS

- (1) "Antibacterial" means a substance that inhibits and reduces the growth of bacteria.
- (2) "Antibacterial solution" means any solution used to retard the growth of bacteria approved for the application to human skin and includes all products so labeled.
- (3) "Antiseptic" means a substance that will inhibit the growth and development of microorganisms without necessarily destroying them.
- (4) "Antiseptic technique" means to render or maintain free from infectious material.
- (5) "Approval" means written approval from the department of health indicating that the body piercing establishment has been inspected and meets all terms of this part and the applicable rules.
- (6) "Autoclave" means a device which automatically holds the temperature, pressure, and time for the purpose of sterilization.

- (7) "Autoclave indicator" means chemical detection strips, markers, or tape.
- (8) "Biohazardous waste" means "regulated waste" (see definition No. 57).
- (9) "Blood" means human blood, human blood components, and products made from human blood.
- (10) "Bloodborne pathogens" means pathogenic microorganisms present in human blood that can cause disease in humans. These pathogens include, but are not limited to, Hepatitis B virus (HBV) and human immunodeficiency virus (HIV).
- (11) "Body piercing" means the piercing of any part of the body for compensation by someone, other than a physician licensed under Title 63, who utilizes a needle or other instrument for the purpose of inserting an object into the body for non- medical purposes; body piercing includes ear piercing, except when the ear piercing procedure is performed with an ear piercing gun.
- (12) "Body piercing establishment" means any place, whether temporary or permanent, stationary or mobile, wherever situated, where body piercing is performed, including any area under the control of the operator.
- (13) "Body piercing operator" or " operator" means a person who controls, operates, conducts, or manages a body piercing establishment, whether the operator is actually engaging in body piercing or not.
- (14) "Body piercing establishment permit" or "permit" means the issuance of a written permit by the department to a body piercing establishment stating that such establishment, after inspection, was found to be in compliance with this part.
- (15) "Body piercing service" or "body piercing procedure" means the service performed or the procedure utilized for body piercing.
- (16) "Body piercing technician" or " technician" means a person at least eighteen (18) years of age who engages in the practice/service of body piercing, regardless of the type of body ornament utilized or body area to be pierced.
- (17) "Body piercing technician license" means the issuance of a state license authorizing the person named therein to engage in the practice/service of body piercing after fulfilling the requirements of this part.
- (18) "Business" means any entity that provides body piercing services or procedures for compensation.
- (19) "Chemical detection strips, markers or tape" means the use of detection devices placed on items for sterilization to facilitate in determining that the item has been subjected to steam sterilization process.
- (20) "Commissioner" means the Commissioner of the department of health or the Commissioner's duly authorized representative.
- (21) "Contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.
- (22) "Contaminated laundry" means laundry which has been soiled with blood or other potentially infectious materials or which may contain sharps.
- (23) "Contaminated sharps" means any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, or broken glass.

- (24) "Critical item(s)" means those aspects of operation or conditions which, if in violation, constitute the greatest hazards to health and safety, including imminent health hazards.
- (25) "Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.
- (26) "Department" means the department of health.
- (27) "Disinfectant" means a solution intended to destroy or inactivate specific viruses, bacteria, or fungi on clean, inanimate surfaces [e.g., 1:10 bleach solution] or commercially labeled disinfectant.
- (28) "Disinfecting" means a process that kills or destroys nearly all disease-producing micro-organisms, with the exception of bacterial spores.
- (29) "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.
- (30) "Engineering controls" mean controls (e.g., sharps disposal containers) that isolate or remove the bloodborne pathogens hazard from the workplace.
- (31) "Exposure incident" means a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.
- (32) "Extensively remodeled" means alteration to affect the increase or decrease of floor space or the alteration of walls in a work area.
- (33) "For compensation" shall include an instance in which the body piercing procedure is performed without charge, when the customer buys the body piercing ornament/jewelry or is required to provide other compensation, as well as normal payment for the procedure.
- (34) "Germicide" means an agent that kills pathogenic microorganisms.
- (35) "Germicidal solution" means any solution which destroys microorganisms and is so labeled.
- (36) "Handwashing facilities" means a facility providing an adequate supply of running potable water, soap dispenser, soap, and single use towels or automatic dryer.
- (37) "Imminent health hazard" means any condition, deficiency, or practice, as identified by the health officer, which, if not corrected, is very likely to result in illness, injury, or loss of life to any person.
- (38) "Infectious waste" means "regulated waste" (see definition No. 57).
- (39) "Law" means any applicable provision of the State of Tennessee statutes and rules of any department or agency.
- (40) "License" means the issuance of a license to perform body piercing to any individual. "License" further means to allow or authorize any person who has satisfactorily completed all requirements set forth by law and these rules to engage in the practice or business of body piercing.
- (41) "Minor" means an individual under the age of eighteen (18).

- (42) “Microbiological monitoring for quality control” means the use of a standard spore, *Bacillus stearothermophilus*, to challenge the sterilization process.
- (43) “Occupational exposure” is synonymous with “exposure incident” (see definition No. 31).
- (44) “Operator/Owner” means any person, firm, company, corporation or association that owns, controls, operates, conducts, or manages a body piercing establishment.
- (45) “Other potentially infectious material” means the following human body fluids: semen, vaginal secretions, saliva, and any body fluid visibly contaminated with blood.
- (46) “Parenteral” means piercing mucous membranes or the skin barrier through such events as needle sticks, human bites, cuts, and abrasions.
- (47) “Patron” means a person requesting and receiving body piercing services.
- (48) “Percutaneous” means infectious materials may enter the body through compromised skin surfaces (e.g., needle sticks, acne, cuts, lesions).
- (49) “Permit” means body piercing establishment permit (see definition 14).
- (50) “Person” means operator and/or any individual, partnership, firm, corporation, or agency.
- (51) “Personnel” means the permit holder, any person who body pierces, individuals having supervisory or management duties, or any other person employed or working in a body piercing establishment. This individual may or may not be a body piercing technician.
- (52) “Person in charge” means the individual present in a body piercing establishment who is the apparent supervisor at the time of inspection, or, if no individual is the apparent supervisor, then any employee present.
- (53) “Personal protective equipment” means specialized clothing or equipment, such as gloves or lapcloth, worn by an employee for protection against a hazard. General work clothes not intended to function as protection against a hazard are not considered to be personal protective equipment.
- (54) “Pierce” or “piercing” means body piercing (see definition No. 11).
- (55) “Premises” means the physical location of an establishment which offers and performs body piercing services.
- (56) “Potable water” means water that is safe for drinking.
- (57) “Proof of age” means a driver’s license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid.
- (58) “Regulated waste” means liquid or semi-liquid blood or other potentially infectious materials, contaminated items that would release blood, or other potentially infectious materials in a liquid or semi-liquid state, if compressed, and contaminated sharps.
- (59) “Safe materials” means articles manufactured and used in accordance with law.
- (60) “Sanitary” means clean and free of agents of infection.

- (61) "Sanitization" means an effective germicidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the microorganism level, including pathogens, to a safe level on utensils and equipment.
- (62) "Sewage" means human excreta, all water carried waste, and household wastes from residences, buildings, or commercial and industrial establishments.
- (63) "Single use" means a disposable item that is used one (1) time on one (1) patron and then is properly disposed of by appropriate measures.
- (64) "Solid waste" means refuse, garbage, trash, rubbish, and any other item(s) which could cause an unsanitary condition or undesirable health and safety conditions.
- (65) "Sterilization" means holding in an autoclave for fifteen (15) minutes at fifteen (15) pounds of pressure and at a temperature of two hundred and fifty (250) degrees Fahrenheit or one hundred and twenty-one (121) degrees Celsius.
- (66) "Sterilize" means a process by which all forms of microbial life, including bacteria, viruses, spores, and fungi are destroyed.
- (67) "Universal precautions" means that all blood and body fluids are treated so as to contain all blood borne pathogens and taking proper precautions to prevent the spread of any blood borne pathogens.
- (68) "Utensil" means any implement, tool, or other similar device used in the storage, preparation, operation, or body piercing process.
- (69) "Waste" means solid waste, sewage, blood and body fluids or other waste resulting from the operation of a body piercing establishment.
- (70) "Work area" means an area where the act of body piercing takes place.
- (71) "Work practice controls" means controls that reduce the likelihood of exposure by altering the manner in which a task is performed.
- (72) "Work station" means a work area (see definition No. 69).

Authority: *T.C.A. §§4-5-202, 62-38-301 et seq., and 68-2-609.*

1200-23-6-.02 PROHIBITED ACTS

- (1) No person under the age of eighteen (18) years shall perform a body piercing procedure on another person.
- (2) No person shall perform a body piercing procedure on another person who is under the influence of drugs or alcohol.
- (3) No person shall perform a body piercing procedure on an individual who is under eighteen (18) years of age, unless the parent, legal guardian, or legal custodian is present and written consent has been given by the individual's parent, legal guardian, or legal custodian in accordance with paragraph 1200-23-6-.03. However, the provisions of this subsection shall not apply to an individual who has been emancipated by marriage or by a court order directly pertaining to body piercing.

- (4) No person shall pierce any site in which the skin surface exhibits any evidence of unhealthy conditions.
- (5) No person shall perform a body piercing procedure without a current body piercing technician license.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.03 CONSENT AND BODY PIERCING OF MINORS

- (1) No person shall perform a body piercing procedure on an individual who is under eighteen (18) years of age, unless written consent has been given by the individual's parent, legal guardian, or legal custodian in accordance with this section. However, the provisions of this section shall not apply to an individual who has been emancipated by marriage or by a court order directly pertaining to body piercing.
- (2) Emancipated individuals must present the marriage license or a copy of the court order and another form of identification at the time of the body piercing procedure.
- (3) A parent, legal guardian, or legal custodian of an individual under age eighteen (18) who desires to give consent to a business for performance of a body piercing procedure on the individual under the age of eighteen (18) shall do all of the following:
 - (a) appear in person at the business at the time the procedure is performed;
 - (b) produce proof of age of the attesting individual; and
 - (c) sign a form provided by the business that:
 1. states the minor's gender and age in years. (For minors less than one (1) year old, the age in months up to and including twelve (12) months of age shall be stated);
 2. explains the manner in which the procedure will be performed and the methods for proper care of the affected body area following performance of the procedure; and
 3. requires signing of a statement with the exact wording as follows:

“I, the undersigned, certify that I am the parent, legal guardian, or legal custodian of the named minor and further give consent to the body piercing procedure(s) as explained. I acknowledge that I am fully aware that to falsify my legal standing as to being the minor's parent, legal guardian or legal being constitutes a Class C misdemeanor. A Class C misdemeanor means imprisonment for not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00) or both. (T.C.A. 40-35-111).”
- (4) Records of body piercing procedures performed on minors shall be maintained by the operator for two (2) years. A copy of all paperwork on an individual under age eighteen (18) shall be forwarded to the department within thirty (30) business days following performance of the body piercing procedure, and the department shall retain such paperwork for two (2) years. This paperwork shall include, but not be limited to:
 - (a) the signed document that explains the manner in which the procedure was performed and the methods for proper care;
 - (b) a copy of the proof of age of the attesting individual; and

- (c) the signed statement that the individual is the minor's parent, legal guardian, or legal custodian, that provides permission to perform a body piercing procedure on a minor and that stipulates that the attesting individual understands the consequences for falsifying their legal standing as to being the parent, legal guardian, or legal custodian.
- (5) Unless consent has been given in accordance with 1200-23-6-.03(3), no individual who is under age eighteen (18) shall obtain or attempt to obtain a body piercing procedure.
- (6) No individual shall knowingly show or give false information concerning the individual's name, age, or emancipation.
- (7) No individual shall knowingly show or give any false information as to the name, age, or other identification of an individual who is under age eighteen (18) for the purpose of obtaining a body piercing procedure for the individual who is under age eighteen (18).
- (8) No individual shall impersonate the parent, legal guardian, or legal custodian of an individual who is under age eighteen (18) for the purpose of obtaining a body piercing procedure for the individual who is under age eighteen (18).
- (9) The operator shall require proof of age for any patron under the age of twenty-seven (27), and the operator shall retain a copy of the patron's proof of age in the files of the business for a period of two (2) years from the time of the body piercing procedure.
- (10) It shall constitute a Class C misdemeanor for a violation of 1200-23-6-.03(7) by an individual over the age of seventeen (17) who impersonates a parent, legal guardian, or legal custodian.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.03 MINIMUM STANDARDS FOR BODY PIERCING ESTABLISHMENTS

- (1) **Submission of Plans.** Whenever a body piercing establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a body piercing establishment, at least one set of properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Commissioner for review and approval at least thirty (30) days before construction, remodeling, or conversion is begun. The plans and specifications shall indicate:
 - (a) the total area in square feet to be used for the business;
 - (b) all entrances and exits;
 - (c) the number, location and types of plumbing fixtures;
 - (d) source of water supply;
 - (e) the lighting plan;
 - (f) the floor plan identifying the general layout of work areas, to include fixtures and equipment; and
 - (g) a list of proposed fixed body piercing equipment and facilities;

- (2) The Commissioner shall approve the plans and specifications, if they meet the requirements of these Rules.
- (3) No body piercing establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Commissioner.
- (4) Pre-Operational Inspection. After plans and specifications have been approved by the Commissioner, the body piercing establishment shall not start operations until the Commissioner has made a pre-operational inspection and has determined compliance with the approved plans and specifications and with the requirements of these Rules.
- (5) Each business where body piercing procedures are performed shall provide a work area separate from observers or visitors.
- (6) A work area shall have a sink equipped with hot and cold running water for handwashing and cleaning instruments, apart from a bathroom sink, which is conveniently available.
- (7) The use of common towels is prohibited. Handsinks shall be equipped with a soap dispenser and single-use towels.
- (8) Each body piercing establishment shall be equipped with an autoclave or steam sterilizer, a sterilizing device capable of meeting sterilization as defined in 1200-23-6-.01(64). The autoclave shall be used to sterilize all nondisposable or reusable body piercing equipment.
- (9) Each location shall have the facilities to properly dispose of all waste material. All materials (e.g., needles) must be disposed of in accordance with the Code of Federal Regulations, Title 29, Part 1910, Occupational Safety and Health Act, Bloodborne Pathogens and/or accepted universal precaution guidelines.
- (10) Water Supply.
 - (a) Enough potable water for the needs of the body piercing establishment shall be provided from a source constructed and operated according to law.
 - (b) Sewage. All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewerage disposal system constructed and operated according to law.
 - (c) Plumbing. Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any other water supply or other source of contamination.
- (11) Toilet Facilities.
 - (a) Toilet installation. Toilet facilities shall be designed, installed, and maintained according to law. There shall be sufficient toilet rooms and/or toilet fixtures to accommodate patrons, and employees, and operators.
 - (b) Toilet rooms. Toilet rooms opening directly into work or customer waiting areas shall be completely enclosed and shall have tight-fitting, solid doors, which shall be closed except during cleaning or maintenance.
 - (c) Toilet fixtures. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue on tissue holders shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms shall have at least one covered waste receptacle.

(12) Lavatory Facilities.

- (a) Lavatory installation. Lavatory facilities shall be designed, installed, and maintained according to law. Facilities shall be of sufficient number and location to permit convenient use by patrons, and employees, and operators.
- (b) Lavatory faucets. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.
- (c) Lavatory supplies. A soap dispenser and a supply of antiseptic, hand-cleaning soap or detergent shall be available at each lavatory. A supply of single-use sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.
- (d) Lavatory maintenance. Lavatories, soap dispensers, hand-drying devices, and all related fixtures shall be kept clean and in good repair.

(13) Solid Waste

(a) Containers.

- 1. Garbage and refuse shall be kept in durable, easily cleaned containers that do not leak and do not absorb liquids. Containers shall be kept in a clean and sound condition and all garbage and refuse disposed of according to law.
- 2. Containers used in work areas shall be kept covered when not in use and after they are filled.
- 3. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulate.

(b) Garbage and refuse shall be disposed of at such frequency as to prevent the development of odor and the attraction of insects, rodents, or vermin.

(c) Disposal of potentially infectious waste such as blood, fluids, used inks, or other liquid waste may be deposited directly into a drain connected to a sanitary sewer system. Disposable needles, scalpels, or other sharp items shall be placed intact into puncture-resistant sharps containers with a biohazard label before disposal. Filled sharps containers shall be considered regulated waste and must be disposed of in accordance with Solid Waste Processing and Disposal Regulations (1200-1-7).

(d) Waste potentially contaminated with small amounts of blood or other infectious body fluids (e.g., gauze, wipes, disposable lap cloths), which do not meet the definition of regulated waste, shall be double-bagged in sealed, impervious bags to prevent leakage of the contained items. These bags shall be of sufficient strength to prevent breakage or leakage and shall not contain any sharps. The waste bags shall be containerized and disposed of in an approved sanitary landfill.

(14) The premises shall be kept in such condition as to prevent the entrance, harborage, or feeding of insects, rodents, or vermin.

(15) Floors

(a) Floor construction. Floors and floor coverings of all work areas, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth, nonabsorbent, durable material and maintained in

- good repair. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is allowed in work areas, dressing rooms, and locker rooms. Carpeted flooring around the operating chair and work table in the work area must be covered by vinyl or rubber sheeting or mats so as to preclude any absorption of spillage that may occur during the body piercing operation.
- (b) Mats. Mats shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleanable.
- (16) Walls and Ceilings
- (a) Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures shall be constructed of smooth, nonabsorbent, durable material and be maintained in good repair.
- (b) Attachments. Light fixtures, vent covers, wall-mounted fans, and similar equipment attached to walls and ceilings shall be easily cleanable and maintained in good repair.
- (17) Physical Facilities. Floors, mats, walls, ceilings, and attached equipment and decorative materials shall be kept clean.
- (18) Lighting
- (a) Permanently fixed artificial light sources shall be installed to provide at least fifty (50) foot-candles of light on all work area surfaces and at equipment washing work levels.
- (b) Permanently fixed artificial light sources shall be installed to provide at a distance of thirty (30) inches from the floor at least ten (10) foot candles of light in all other areas.
- (19) Ventilation. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes.
- (20) Living areas. No operation of a body piercing establishment shall be conducted in any room used as living or sleeping quarters.
- (21) Poisonous or Toxic Materials
- (a) Materials permitted. There shall be present in the body piercing establishment only those poisonous or toxic materials necessary for maintaining the establishment and cleaning or sanitizing equipment, as well as controlling insects and rodents.
- (b) Labeling of materials. Containers of poisonous or toxic materials shall be prominently and distinctly labeled for easy identification of contents.
- (c) Toxic items shall be separated from other forms of materials used in the process of body piercing.
- (22) Premises
- (a) Body piercing establishments shall be kept neat, clean, and free of litter and rubbish.
- (b) Only articles necessary for the operation and maintenance of the body piercing establishment shall be stored on or within the establishment.

- (23) Animals. Live animals of all species shall be excluded from within the body piercing work area and from adjacent areas within the facility under the control of the permit holder. However, this exclusion does not apply to fish in an aquarium. Service animals accompanying blind or deaf persons shall be permitted in the establishment.
- (24) Equipment and Utensils
- (a) Materials
1. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; they shall be corrosion resistant and nonabsorbent; and they shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, and safe materials.
 2. Re-use of single service articles is prohibited.
- (b) Design and Fabrication
1. General. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, and chipping.
 - (i) Body piercing operational surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, as well as free of difficult-to-clean internal corners and crevices.
 - (ii) Sinks and drain boards shall be self-draining.
 2. Surfaces of equipment not intended as operational surfaces, but which are exposed to splash or debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices and readily accessible for cleaning. Such surfaces shall be constructed of such material and in such repair as to be easily maintained in a clean and sanitary condition.
 3. Needles and other equipment used in body piercings shall be designed and manufactured for the sole purpose of piercing the skin.
- (25) Aisles and working spaces. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of equipment or of operational surfaces by clothing or personal contact.
- (26) Work Area. The work room is to be continually equipped or stocked with the following materials:
- (a) a minimum of six (6) sterilized piercing needles;
 - (b) a minimum of one extra package of disposable towels other than the package that is being used;
 - (c) a minimum of one extra box of disposable gloves other than the box being used; and
 - (d) an extra supply of bandages, ointment or gel, and antibacterial soap.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.04 BODY PIERCING PROCEDURES

- (1) Universal precautions, as defined in these rules, shall be observed to prevent contact with blood or other potentially infectious materials. Body piercing technicians and operators shall be trained in universal precautions.
 - (a) Assume all human blood, plasma, serum, body fluids (semen, saliva, breast milk, vaginal secretions and any fluid contaminated with blood) and tissues to be contaminated with Human Immunodeficiency Virus (HIV) and/or Hepatitis viruses (e.g., HBV).
 - (b) The most susceptible route of occupational infection for HIV and HBV is by accidental needle sticks, contamination of the mucous membranes, or through broken, abraded, or irritated skin. Use appropriate caution and maximum protection to prevent such contact.
 - (c) Proper decontamination procedures, emergency biohazard spill management, and proper use of biosafety equipment shall be utilized.
 - (d) Use aseptic technique. Thorough hand washing is essential after patron contact, after handling blood and body fluids, after wearing gloves, and prior to exiting the work area.
 - (e) Needles shall be sterilized prior to use. Due to the hollow nature of body piercing needles, it is not permissible to reuse needles, non-disposable or otherwise, for body piercing.
 - (f) Dispose of needles and other sharps in puncture proof, autoclavable containers, or disposable biohazard containers.
 - (g) All regulated wastes shall be disposed of in labeled, manufacturer's color-coded waste containers.
 - (h) A spill kit (bleach, leak proof container, paper towels, gloves, spray bottle) is to be used to clean up potentially infectious material spills. Small spills can be wiped up, after donning protective gloves, with paper towels and sprayed with freshly made ten percent (10%) bleach solution.
 - (i) Clean all work areas and equipment used in handling human biohazardous materials with proven disinfectant (e.g., 10% dilution of bleach) when concluding work to protect personnel from accidental infection.
 - (j) Eating, drinking, smoking, inserting contacts, and applying cosmetics or lip balm are not permitted in the work area. Food shall be stored in cabinets or refrigerators designated and used for this purpose only. Food storage cabinets or refrigerators shall be located outside the work area.
 - (k) All procedures shall be performed carefully to minimize the creation of aerosols.
 - (l) Report all work related accidents, incidents, and unexplained illness to the body piercing establishment supervisor, operator, and/or physician immediately.
 - (m) Used gloves shall be removed after each operation and prior to contacting work surfaces, door knobs, wall switches, or telephones. Dispose of used gloves in a bagged, trash container.
 - (n) The operator shall maintain written records of operational equipment utilized by the business, including manufacturers, model numbers, and dates of acquisition or purchase.
- (2) Body Piercing Establishment Personnel

- (a) The body piercing establishment operator shall make available, at no cost to the personnel, Hepatitis B vaccination series, as well as any routine booster dose(s) to every person who may have occupational exposure to blood or other potentially infectious material. For new personnel the vaccine shall be made available within ten (10) working days of initial work assignment.
 - (b) Personnel who decline to accept the Hepatitis B vaccination series must sign a form indicating their refusal.
 - (c) The outer clothing of all personnel shall be clean.
 - (d) Body piercing technicians/operators shall wash their hands with antiseptic soap before and after treating each patron (i.e., before glove placement and after glove removal) and after barehanded touching of inanimate objects likely to be contaminated by blood, saliva, or respiratory secretions. Hands shall be washed after removal of gloves, smoking, eating, drinking, or using the toilet.
 - (e) Body piercing technicians/operators who have exudative lesions or weeping dermatitis, particularly on the hands, shall refrain from all direct patron contact and from handling equipment until the condition resolves.
 - (f) Personnel shall consume food only in approved, designated areas. There shall be no eating or drinking in the work area of the establishment.
 - (g) Personnel shall not use tobacco in any form while engaged in the operation or process of body piercing a patron, nor while in areas used for equipment or utensil washing. Personnel shall use tobacco only in approved, designated areas.
 - (h) Personnel shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in body piercing establishments.
- (3) Implementation of infection-control practices
- (a) Disposable latex or vinyl examination gloves shall be worn by a technician at all times while performing a body piercing. Gloves shall be changed and properly disposed of each time there is an interruption in the body piercing process, or whenever their ability to function as a barrier is compromised. Gloves shall be changed between patrons and used gloves shall be properly disposed of as provided in these rules.
 - (b) Only sterilized equipment or single use supplies, such as disposable razors, single use towels or wipes, lubricants from a collapsible tube, may be used to perform a body piercing. After the piercing procedure, single use items and containers shall be discarded and the work area disinfected.
 - (c) When it is necessary to shave the area for the piercing, a new blade for each patron or customer shall be used when a safety razor is employed, and the permanent part of such razor shall be disinfected. If a straight razor is used, it shall be cleaned with soap and water, rinsed in clear water, and then sterilized in an autoclave.
 - (d) A sterile set of needles shall be used for each patron.
 - (e) Piercing equipment, with the exception of hollow bore needles, shall be sealed for individual patron use in autoclave bags with a chemical or autoclave indicator and date (month and year) of sterilization clearly visible. After piercing, used non-disposable instruments shall be kept in a separate, puncture resistant container until properly cleaned, disinfected, and sterilized using universal precautions and recognized medical methods.

- (f) Microbiological monitoring for adequate functioning of each autoclave will be done at least weekly using a commercial source of *Bacillus stearothermophilus* which is then tested in an accredited commercial laboratory. All laboratory reports will be logged and kept for two (2) years and shall be available for inspection.
 - (g) Upon notification of a positive microbiological monitoring report (detection of viable spores), the sterilizer shall be immediately checked for proper use and function. A repeat test shall be performed within three (3) days. Upon a subsequent positive result from a repeat test, discontinue use of the sterilizer until properly serviced and a negative result is obtained.
 - (h) Sterilizer indicator tape and/or sterilizer bags with indicator tape areas which change color will be used with all items sterilized to indicate the item has been autoclaved. All items shall be marked with the date of sterilization.
 - (i) Sterilized items in the sealed, autoclaved bags shall be stored in a clean, dry place, until used, for no more than one (1) year.
 - (j) Sterilization indicators must change color or discontinue use of autoclave until a negative spore sample is obtained.
 - (k) The body piercing establishment shall be exempt from the requirement for an autoclave in cases where there is only the use of manufactured, pre-sterilized single use, preassembled needles and similar body piercing equipment, and/or the use of no other equipment or tools requiring sterilization.
 - (l) Permanent ink pens or similar equipment shall not be reused, between patrons, to mark the location of piercings on the interior of the nose, mouth, male or female genital areas, mucous membranes, or similar interior cavities.
- (4) Body Piercing Minimum Standards
- (a) Prior to piercing the area to be pierced, or if the area does not need to be shaved, the piercing site shall be cleaned with soap and water, rinsed with clean water, and germicidal solution applied or wiped with alcohol in a sanitary manner before beginning the procedure.
 - (b) Single-use towels or gauze shall be used in preparing the piercing site and shall be disposed of after use on each patron or customer.
 - (c) Records showing the date of the patron's visit, printed name, signature, address, and age, piercing location on the body, and piercing technician's name shall be kept on the establishment premises for a minimum of two (2) years.
 - (d) After each piercing, written instructions shall be given to each patron or customer on the care of the skin of the pierced site to prevent infection. A copy of these instructions shall be posted in a conspicuous place in the establishment, clearly visible to the customer or patron being pierced. These instructions shall include, but are not limited to, bandaging, cleaning, sun exposure, scratching, and wearing of clothing over or around the pierced site.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.05 ESTABLISHMENT PERMITTING AND INSPECTION SYSTEM

- (1) Application Procedures
 - (a) Any person planning to operate a body piercing establishment shall obtain a written application for a permit on a form provided by the Commissioner prior to operation. A new or initial application is required for body piercing establishments that have not previously been permitted or for instances when ownership changes.
 - (b) The Commissioner shall issue a body piercing establishment permit:
 1. upon receiving a completed application with applicable fees; and
 2. after an inspection of the proposed facility reveals that the facility is in compliance with requirements of these rules and law.
- (2) Inspection results - Reporting and Scoring
 - (a) The Commissioner shall conduct at least one (1) inspection of a body piercing establishment prior to issuing a permit to perform body piercing services.
 - (b) The Commissioner shall conduct at a minimum, an annual inspection, prior to issuing a renewal permit to operate a body piercing establishment.
 - (c) The Commissioner may inspect a body piercing establishment at any time the Commissioner deems necessary and shall be given access to the premises and to all records deemed relevant by the Commissioner for the inspection.
 - (d) Inspection results for body piercing establishments shall be recorded on standard departmental forms which summarize the requirements of the law and rules and regulations.
 - (e) The scoring system shall include a weighted point value for each requirement in which critical items are assigned values of either four (4) or five (5) points, with less critical items having assigned values of either one (1) or two (2) points.
 - (f) The rating score of the facilities shall be the total of the weighted point values for all violations subtracted from one hundred (100).
- (3) Critical violations shall include the following:
 - (a) autoclave does not meet minimum time, pressure or temperature requirements;
 - (b) lack of a weekly negative spore or microbiological monitoring test for quality control;
 - (c) nondisposable tubes and needles are not sterilized or were sterilized greater than one (1) year ago;
 - (d) work room is not equipped or stocked as required;
 - (e) reuse of single use articles;
 - (f) sterile instruments are not properly handled;

- (g) reusable instruments are not handled properly;
 - (h) employees with infectious lesions on hands not restricted from body piercing;
 - (i) employees not practicing proper cleanliness and good hygiene practices;
 - (j) water supply not approved, hot and cold running water under pressure not available;
 - (k) approved sewage and liquid waste disposal not available;
 - (l) cross connection allowing back-siphonage present in plumbing system;
 - (m) toilet and hand washing facilities not available for employees;
 - (n) insect and rodent evidence, harborage, or outer opening present; and
 - (o) toxic items not properly stored, labeled, or used.
- (4) Violation Correction
- (a) The inspection report shall state that failure to comply with any time limits specified by the Commissioner for correction may result in cessation of operation. All critical and minor violations shall be corrected within seven (7) and fourteen (14) calendar days, respectively.
 - (b) Review of a citation of a violation of a minor item may be sought, upon submission of a written request to the Director of General Environmental Health which must be received within ten (10) calendar days following the date of the inspection report. If the tenth (10th) day falls on a weekend or state holiday, the first work day following shall be treated as the tenth (10th) day. The request for review shall identify the non-critical item(s) for which review is sought. The final determination shall be made by the Director or the Director's Designee in writing and within a reasonable time after receipt of the request for a review.
 - (c) The citation of a violation of a critical item may also be reviewed upon the receipt of a written request submitted to the Director of General Environmental Health within ten (10) calendar days following the date of the inspection report. If the tenth (10th) day falls on a weekend or state holiday, the first work day following shall be treated as the tenth (10th) day. The request for review shall identify the critical item(s) for which review is being sought. The decision of the Director or the Director's Designee shall be final and made in writing within a reasonable time after receipt of the request for a review.
 - (d) Upon declaration of an imminent health hazard by the Local Health Officer, the Local Health Officer shall issue an order requiring the facility to immediately cease operations until authorized to reopen following notice and opportunity for a hearing as provided in T.C.A. 68-2-608.
 - (e) In the case of temporary body piercing establishments, all violations shall be corrected within twenty-four (24) hours. If violations are not corrected within twenty-four (24) hours, the establishment shall immediately cease operation until authorized to resume by the Local Health Officer. Upon declaration of an imminent health hazard by the Local Health Officer, the Local Health Officer shall issue an order requiring the facility to immediately cease operations until authorized to reopen following notice and opportunity for a hearing as provided in T.C.A. 68-2-608.
 - (f) In the event of an order of cessation of operation, a request for a hearing may be made in writing to the Commissioner postmarked or received within ten (10) calendar days of the order. A hearing shall be afforded, if requested, as promptly as is reasonable under the circumstances.

(5) Permit Suspension or Revocation

- (a) After providing notice and an opportunity for a hearing in accordance with the Uniform Administrative Procedures Act (T.C.A. 4-5-301 et seq.), the Commissioner may suspend or revoke a permit for violation of requirements of this part or for interference with the Commissioner's authorized representative in the performance of their duty. The violation of three (3) or more critical items within a twelve (12) month period may result in revocation of the body piercing establishment permit.

(6) License Suspension or Revocation

- (a) After providing notice and an opportunity for a hearing in accordance with the Uniform Administrative Procedures Act (T.C.A. 4-5-301 et seq.), the Commissioner may suspend or revoke a body piercing technician's license for violation of requirements of this part or for interference with the Commissioner's duly authorized representative in the performance of their duty.
- (7) When a body piercing technician's license is revoked by the Commissioner, a new license may be issued upon compliance with all requirements of the order of revocation, and upon meeting all requirements for a new license and the submission of a new application with applicable fees.
- (8) Whenever an establishment is required under these rules to cease operations, it shall not resume operations until it is shown on re-inspection that conditions responsible for the order to cease operations no longer exist. The Commissioner shall offer an opportunity for re-inspection within a reasonable time.

Authority: T.C.A. §§4-5-202, 4-5-301, 62-38-301 et seq., 68-2-608, and 68-2-609.

1200-23-6-.06 BODY PIERCING TECHNICIAN OR OPERATOR LICENSING

(1) Body Piercing Technician

- (a) On and after January 1, 2002, no person shall perform a body piercing procedure without being licensed as a body piercing technician.
- (b) Any applicant for a body piercing technician's license who was not in business in Tennessee or operating in Tennessee prior to January 1, 2002, shall be required to apprentice or train in the profession of body piercing as set out at 1200-23-6-.06(e).
- (c) In order to obtain a Tennessee license, out-of-state body piercing technicians must show proof of at least two(2) years experience as a professional body piercing technician in another state.
- (d) For purposes of the above subparagraphs (b) and (c), proof of business or experience may be a copy of a business license, another state's technician's license, tax records, or other similar city, county, state, or federal documents which show the prospective applicant as having been in business or operation. The Commissioner shall have final approval on any and all forms of documentation submitted as evidence or proof.
- (e) Any individual not meeting the requirements set out at 1200-23-6-.06(1)(b)-(d) above shall be required to apprentice or train in the profession of body piercing. Such training shall be for a minimum of one (1) year under a currently licensed body piercing technician.

- (2) Each applicant for a body piercing establishment permit (i.e., the body piercing operator) and/or for a body piercing technician license shall undergo a training program before receiving a permit or license. In addition, the body piercing operator must ensure that each apprentice technician shall undergo a training program before beginning apprenticeship. The training shall include at least one of the following:
 - (a) the Alliance of Professional Tattooist course in sterilization;
 - (b) a course approved by the Commissioner in methods and techniques for the proper sterilization of instruments and materials used in body piercing; or
 - (c) present acceptable evidence of having satisfactorily completed an approved course of instruction in sterilization techniques and methods through a college medical sterilization course.
- (3) Each applicant for a body piercing establishment permit (i.e., the body piercing operator) and/or for a body piercing technician's license shall be required to take and pass an examination concerning bloodborne pathogens, sterilization techniques and the provisions of T.C.A. Title 62, Chapter 38 before a permit or license shall be issued. In addition, the body piercing operator must ensure that each apprentice technician takes and passes the examination before beginning apprenticeship. Such examination shall be either a written exam prescribed by the Commissioner or documentation of a similar exam given with a course as required in 1200-23-6-.06(2) and approved by the Commissioner.
- (4) The body piercing technician license shall be issued upon proof that the applicant:
 - (a) met the requirements of 1200-23-6-.06(1);
 - (b) attended a course and passed a written examination, as specified in 1200-23-6-.06(2) and 1200-23-6-.06(3); and
 - (c) submitted an approved application with the appropriate fee.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.07 LICENSE AND PERMIT FEES

- (1) License Fees
 - (a) A body piercing technician shall be assessed an initial licensing fee and a renewal licensing fee of one hundred forty dollars (\$140.00) each. Renewal fee is due on or before January 1 of each year.
 - (b) A late penalty fee of one-half the fee amount shall be assessed on all (1) renewal technician license applications postmarked after January 31st of each permitting year or (2) a fee received more than thirty (30) days from the date of new application.
 - (c) A temporary body piercing technician shall pay a temporary license fee of fifty dollars (\$50.00).
- (2) Permit Fees
 - (a) A body piercing establishment shall be assessed an initial fee and a renewal permit fee of seventy dollars (\$70.00) each. Renewal fee is due on or before January 1 of each year.

- (b) A temporary body piercing establishment shall be assessed a temporary permit fee of fifty dollars (\$50.00).
- (c) A late penalty fee of one-half the fee amount shall be assessed on all (1) renewal establishment permit applications postmarked after January 31st of each permitting year or (2) a fee received more than thirty (30) days from the date of any change in ownership or new application.
- (3) A new or initial application for a permit is required for body piercing establishments that have not previously been permitted or for instances when ownership changes. A permit is not transferable.
- (4) For the purposes of determining a change of ownership of a body piercing establishment, a "person" shall include a change of ownership of the body piercing establishment by a corporation (e.g., Corporation A sells its body piercing establishment to Corporation B) or a change of ownership of a corporation which owns a body piercing establishment. If there is no change in the federal tax identification number applicable to the corporation which owns the body piercing establishment, there is no change of ownership for permit purposes.
- (5) A new or initial application for a license is required for body piercing technicians that have not previously been licensed.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.08 LOSS OF PERMIT OR LICENSE DOCUMENT

- (1) Any body piercing technician or establishment that loses, misplaces, or destroys a permit or license shall immediately apply for a duplicate, as soon as the fact becomes apparent. The fee for the duplicate shall be three dollars (\$3.00). This fee shall accompany the application for such duplicate.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

1200-23-6-.09 GENERAL PROVISIONS

- (1) Posting of permit and License. Body piercing establishment permits and technician licenses shall be posted within the establishment in a conspicuous place where they may be readily observed by the public. This shall mean a place approved by the Commissioner at the time of inspection. No person, except an authorized representative of the Commissioner, shall modify, remove, cover up, or otherwise make the permit or license less conspicuous in any way.
- (2) Body piercing establishments and technicians who also practice tattooing as prescribed by T.C.A. 62-38-201 et. seq., shall also be required to meet all the operational, licensing and permitting requirements as outlined in these rules. Where the rules or statute differ for tattooing and body piercing, the more stringent requirements shall take precedence.
- (3) Severability. If any provision or application of any provision of these rules is held invalid, that invalidity shall not affect other provisions or applications of these rules.

Authority: T.C.A. §§4-5-202 and 62-38-101 et seq.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of September, 2001. (09-29)

BOARD OF MEDICAL EXAMINERS - 0880

There will be a hearing before the Board of Medical Examiners to consider the promulgation of an amendment to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-207, 63-6-209, and 63-6-211. 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 on the Ground Floor of the Cordell Hull Building located at 425 5th Avenue North, Nashville, Tennessee at 2:30 p.m. (CST) on the 20th 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 Division's ADA Coordinator at the Division of Health Related Boards, 1st Floor Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-1010, (615) 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, 1st Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN, 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULE**AMENDMENT**

Rule 0880-2-.07, Application Review, Approval, Denial, Interviews and Conditioned, Restricted and Locum Tenens Licensure, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) If an application is incomplete when received by the Board Administrative Office, the applicant shall be notified of the information required. Except as provided in subparagraph (b), the applicant shall cause the requested information to be received by the Board Administrative Office on or before the ninetieth (90th) day after the initial letter notifying the applicant of the required information is sent.
 - (a) Except as provided in subparagraph (b), if requested information is not timely received, the application file shall be closed and the applicant notified that the Board will not consider licensure or exemption until a new application is received pursuant to the rules governing that process, including another payment of all fees applicable to the applicant's circumstances.
 - (b) The ninety (90) day return requirement shall not apply to applications which require action by the Immigration and Naturalization Service. Action on those applications pursuant to subparagraph (a) shall not take place until the expiration of six (6) months from the date the applications are received.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-6-207, 63-6-209, and 63-6-211.

The notice of rulemaking set out herein was properly filed in the Department of State on the 20th day of September, 2001. (09-19)

BOARD OF NURSING - 1000

There will be a hearing before the Tennessee Board of Nursing to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-7-207. 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 30th 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 1000-1-.03, Biennial Registration (Renewal), is amended by deleting paragraphs (1), (2), (4), (5), and (7) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1), (2), (4), (5), and (7) shall read:

- (1) The due date for renewal is the last day of the month in which a licensee's birth date falls pursuant to the Division of Health Related Board's biennial birth date renewal system.
 - (a) The Board may request submission of evidence of satisfactory health, character, or professional nursing competence before renewal of registration if a licensee has been inactive in nursing for two (2) years or more, or if questions pertaining to health, character, or competence have been brought to the attention of the Board.
 - (b) Anyone submitting a renewal form or letter which is found to be untrue may be subject to disciplinary action as provided in Rule 1000-1-.04.

- (2) 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 registration online via the Internet, a renewal application form will be mailed to each individual licensed by the Division to the last address provided to the Division. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

- (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. The failure of any nurse to renew his/her license biennially or the failure to pay any fees required by law shall automatically forfeit the right of such nurse to practice nursing in this state.
- (5) Retirement—A person who has filed the required information for permanent retirement of licensure with the Board shall be permitted to use the title Registered Nurse, Retired (R.N., R.). Currently licensed registered nurses who wish to permanently retire their license may submit to the board office the following information:
 - (a) A properly completed permanent retirement affidavit form (furnished by the Board).
 - (b) Other documentation which may be required by the Board.
- (7) Reinstatement of an Expired or Retired License - Reinstatement of a license that has expired or has been retired may be accomplished upon meeting the following conditions:
 - (a) Payment of all past due renewal fees and state regulatory fees, pursuant to Rule 1000-1-.12; and
 - (b) Payment of the R.N. Reinstatement Renewal fee, pursuant to Rule 1000-1-.12; and
 - (c) The Board may request submission of evidence of satisfactory health, character, or professional nursing competence before renewal of registration if a licensee has expired or been retired, or if questions pertaining to health, character, or competence have been brought to the attention of the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-7-114, 63-7-115, 63-7-116, 63-7-207, and 63-7-209.

Rule 1000-1-.15, Scope of Practice is amended by renumbering the language of this rule as paragraph (1) and adding the following language as paragraph (2), so that as amended, the new paragraphs (1) and (2) shall read:

- (1) Universal Precautions for the Prevention of HIV Transmission - The Board adopts, as if fully set out herein, rules 1200-14-3-.01 through 1200-14-3-.03 inclusive, of the Department of Health and as they may from time to time be amended, as its rule governing the process for implementing universal precautions for the prevention of HIV transmission for health care workers under its jurisdiction.
- (2) Determination and Pronouncement of Death – Pursuant to T.C.A. § 68-3-511, a registered nurse may make an actual determination and pronouncement of death for a resident of a hospice or nursing home, or if the deceased patient was receiving the services of a licensed home care organization.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-3-511, and Public Chapter 266 of the Public Acts of 2001.

Rule 1000-2-.03, Biennial Registration (Renewal), is amended by deleting paragraphs (1), (2), (4), (5), and (7) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1), (2), (4), (5), and (7) shall read:

- (1) The due date for renewal is the last day of the month in which a licensee's birth date falls pursuant to the Division of Health Related Board's biennial birth date renewal system.
 - (a) The Board may request submission of evidence of satisfactory health, character, or professional nursing competence before renewal of registration if a licensee has been inactive in nursing for two (2) years or more, or if questions pertaining to health, character, or competence have been brought to the attention of the Board.

- (b) Anyone submitting a renewal form or letter which is found to be untrue may be subject to disciplinary action as provided in Rule 1000-2-.04.
- (2) 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 registration online via the Internet, a renewal application form will be mailed to each individual licensed by the Division to the last address provided to the Division. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (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. The failure of any nurse to renew his/her license biennially or the failure to pay any fees required by law shall automatically forfeit the right of such nurse to practice nursing in this state.
- (5) Retirement—A person who has filed the required information for permanent retirement of licensure with the Board shall be permitted to use the title Licensed Practical Nurse, Retired (L.P.N., R.). Currently licensed practical nurses who wish to permanently retire their license may submit to the board office the following information:
- (a) A properly completed permanent retirement affidavit form (furnished by the Board).
 - (b) Other documentation which may be required by the Board.
- (7) Reinstatement of an Expired or Retired License - Reinstatement of a license that has expired or has been retired may be accomplished upon meeting the following conditions:
- (a) Payment of all past due renewal fees and state regulatory fees, pursuant to Rule 1000-2-.12; and
 - (b) Payment of the L.P.N. Reinstatement Renewal fee, pursuant to Rule 1000-2-.12; and
 - (c) The Board may request submission of evidence of satisfactory health, character, or professional nursing competence before renewal of registration if a licensee has expired or been retired, or if questions pertaining to health, character, or competence have been brought to the attention of the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-7-114, 63-7-115, 63-7-116, 63-7-207, and 63-7-209.

The notice of rulemaking set out herein was properly filed in the Department of State on the 18th day of September, 2001. (09-11)

BOARD OF OSTEOPATHIC EXAMINATION - 1050

There will be a hearing before the Board of Osteopathic Examination to consider the promulgation of new rules and repeal of rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-9-101, 63-9-109, and 63-9-111. 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 on the Ground Floor of the Cordell Hull Building located at 425 5th Avenue North, Nashville, Tennessee at 2:30 p.m. (CST), on the 8th day of January, 2002.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the Division's ADA Coordinator at the Division of Health Related Boards, 1st Floor Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-1010, (615) 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, 1st Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN, 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULE

NEW RULE

TABLE OF CONTENTS

1050-2-.18 Privileged Communications (Confidentiality) and Medical Records

1050-2-.18 PRIVILEGED COMMUNICATIONS (CONFIDENTIALITY) AND MEDICAL RECORDS.

- (1) Purposes – The purposes of these rules are:
 - (a) To recognize that the interests of the patient is always paramount. Everything that is done for a patient should be with his/her interests and well-being foremost in mind and done in such a manner as to encourage and promote dialog and effective communication between physicians and patients.
 - (b) To recognize that medical records are an integral part of the practice of osteopathic medicine as defined in T.C.A. § 63-9-106.
 - (c) To give physicians, their professional and non-professional staff, and the public direction about the content, ownership, access, protection, transfer, retention, and destruction of those records.
 - (d) To recognize that, despite the fact that in Tennessee there currently exists no evidentiary privilege regarding physician/patient communications, there is an ethical and legal duty placed on physicians, and their professional and non-professional staff to keep certain confidences.
 - (e) To delineate what is expected of physicians in regards to the confidential information, or as it is referred to as in T.C.A. § 63-9-111 (b) (7) “privileged communications,” received in the course of their practice of osteopathic medicine.

- (f) To emphasize to patients that full disclosure of information to a physician is necessary in order that the physician may most effectively provide needed services and that when making such disclosure they are doing so with the knowledge that the physician will respect the confidential nature of the communication.
 - (g) To recognize that a distinction exists between a physician's medical records for a patient receiving services in the physician's office and those records created by the physician for that patient for purposes of services provided in a hospital as defined by T.C.A. § 68-11-302 (4) and that the distinction exists regardless of the fact that the physician may also be an employee of the hospital or of a medical group employed or owned by the hospital.
- (2) Conflicts – As to medical records, these rules should be read in conjunction with the provisions of T.C.A. §§ 63-2-101 and 102, and are not intended to conflict with those statutes in any way. Those statutes, along with these rules, govern the subjects that they cover in the absence of other controlling state or federal statutes or rules to the contrary.
 - (3) Applicability – These rules regarding medical records shall apply only to those records, the information for which was obtained by physicians or their professionally licensed employees, or those over whom they exercise supervision, for purposes of services provided in any clinical setting other than those provided in a hospital as defined by T.C.A. § 68-11-302 (4), a hospital emergency room or hospital outpatient facility.
 - (4) Privileged Communications – Confidentiality – For purposes of this rule the terms “privileged communication” as used in T.C.A. § 63-9-111 (b) (7), and “confidential information” are synonymous. Consequently, a violation of any of these rules, while not creating an individual cause of action on behalf of a patient against a physician, is grounds for disciplinary action before the Board. Additionally, these rules should not be construed to create any evidentiary privilege that is currently not recognized in the courts of this state.
- (a) All information disclosed by a patient and information given to the patient by a physician during the course of the relationship between the physician and patient is confidential to the greatest possible degree and the physician shall not reveal it without the express consent of the patient, unless required to do so by law, or pursuant to a lawfully issued subpoena, or in the following circumstances:
 - 1. Where a patient threatens to inflict serious bodily harm to another person or to him or herself and there is a reasonable probability that the patient may carry out the threat, the physician shall take reasonable precautions for the protection of the intended victim, including if deemed necessary, notification of law enforcement authorities.
 - 2. When the physician is made a party by any patient(s) in any legal action civil, criminal or administrative, whether by deposition or otherwise, which presents issues requiring the disclosure of medical information but only as to the information relevant to those issues.
 - 3. When the physician is the Respondent in any Board disciplinary action based in whole or in part upon his/her actions in regard to any patient.
 - 4. While discussing with referring and consulting health care practitioners a mutual patient's care and treatment course.
 - 5. While discussing decisions enumerated in living wills with the patient's family members.
 - (b) It is a physician's ultimate responsibility for the maintenance of confidentiality. A physician shall take all necessary and reasonable precautions to prevent the disclosure of confidential information by staff,

supervisees and such businesses as practice management companies, and dictation and transcription services with whom the physician contracts by doing at least the following:

1. Impressing upon applicants for employment, employees and supervisees in his/her clinical settings of the requirement of strict and absolute confidentiality of information regarding patients and compliance with these rules.
2. Requiring that confidentiality provisions satisfactory under these rules are included in all employment, and supervision contracts and/or agreements.
3. Refusing to enter into contracts with any business such as dictation or transcription services, and/or practice management companies in which there are no provisions insuring that the business has established procedures satisfactory under these rules to protect confidentiality.

(5) Medical Records –

- (a) Defined - For purposes of these rules the term “medical records” means the electronic, digital or paper recorded information, including all items listed in T.C.A. § 63-2-101 (c) (2) and subparagraph (d) of this rule but does not include billing and financial information, from and/or about a patient’s physical or mental condition for purposes of the provision of medical services for the patient in any clinical setting other than a hospital as defined by T.C.A. § 68-11-302 (4) recorded by the physician, or any nurse practitioner and/or physician assistant under the physician’s supervision, or the physician’s employees.
- (b) Duty to Create and Maintain Medical Records – As a component of the standard of care and of minimal competency a physician must cause to be created and maintained, in compliance with the provision of these rules, a medical record for every patient for whom he or she, and/or any of his or her professionally licensed supervisees, performs services or provides professional consultation
- (c) Distinguished from Hospital Medical Records - The medical records covered by these rules are separate and distinct from those records generated for the patient by the physician during the course of providing medical services for the patient in a hospital as defined by T.C.A. § 68-11-302 (4) regardless of whether the physician is an employee or a member of a group practice which is employed or owned by a hospital.
 1. The provisions of T.C.A. Title 68, Part 11, Chapter 3 govern medical records generated in a hospital as defined by T.C.A. 68-11-302 (4).
 2. The medical records covered by these rules are those:
 - (i) That are created prior to the time of the patient’s admission to or confinement and/or receipt of services in a hospital as defined by T.C.A. § 68-11-302 (4), hospital emergency room and/or hospital outpatient facility, and/or
 - (ii) That are created after the patient’s discharge from a hospital as defined by T.C.A. § 68-11-302 (4), emergency rooms or outpatient facility.
 3. Even though the records covered by these rules may, of necessity, reference provision of services in the hospital setting and the necessary initial work-up and/or follow-up to those services, that does not make them “hospital records” that are regulated by or obtainable pursuant to T.C.A. Title 68, Part 11, Chapter 3.
- (d) Content – All medical records, or summaries thereof, produced in the course of the practice of medicine for all patients shall include all information and documentation listed in T.C.A. § 63-2-101 (c) (2) and such

additional information that is necessary to insure that a subsequent reviewing or treating physician can both ascertain the basis for the diagnosis, treatment plan and outcomes, and provide continuity of care for the patient.

- (e) Ownership – While patients have a proprietary interest in the information contained in their records, the records belong to and are the property of the physician who creates them. For purposes of these rules, a physician owns the information regarding medical services rendered for patients created by him or herself and any nurse practitioners and/or physician assistants over whom the physician exercises supervision in any clinical setting other than a hospital as defined by T.C.A. § 68-11-302 (4), hospital emergency room or hospital outpatient facility.
 - 1. A physician shall make all necessary arrangements to always have the original of any patient’s medical records maintained in accordance with these rules unless ordered to do otherwise by a court of competent jurisdiction.
 - 2. The primary duty regarding medical records under this rule lies with the physicians who create and thereby own them. The physician must be assured that whomever has responsibility for medical records in their offices, in a group practice, or any other practice setting has made all necessary arrangements to comply with these rules before accepting or contracting for employment, or entering into contracts with practice management groups, dictation, or transcription services.

- (f) Access and Security– In accordance with these rules and ethical precepts concerning confidentiality and/or professional secrets, a physician, his/her employees and supervisees shall zealously guard against the unauthorized access to patient medical records.
 - 1. General Access - Without a lawfully issued subpoena, access to medical records shall not be provided to any person or entity without consent of the patient. In the case of patients under the age of eighteen (18), except mature minors who have sought and received medical services independently, a parent or the legal guardian/representative (anyone acting in loco parentis) of that patient, must specifically authorize the access.
 - (i) Consent to provide access to the records by third party payors, peer review, and other consulting or treating health care professionals must be obtained.
 - (ii) The authorization to release records required by subpart (i) may be included with the physician’s consent for treatment form if done in such a way as to reasonably constitute true “informed consent” on behalf of the patient. The intent being that the patient is made aware of all types of entities to whom information may or will be routinely released.
 - (iii) In the case of requests for information or medical records regarding a minor patient, the signature of a stepparent is not sufficient. A parent or legal guardian of the minor must sign such authorization.
 - 2. Notification to Minors - A physician shall notify a minor child patient that the information about the visit will be reported to the applicable third party payor for billing purposes and, as a result, information about the patient and the purpose for the visit may be disclosed to the subscriber-parent pursuant to an explanation of benefits.
 - 3. Copying Costs - A physician may charge a reasonable fee for copying and delivery of medical records. The physician may, to the extent that physical harm to the patient will not occur if the records are not made immediately available, require payment before release of the medical records. However, medical records shall not be withheld because of an unpaid bill for medical services. Absent a specific statute or

rule applicable to specific types of medical records, copying costs and the timing of delivery of copies of medical records or summaries thereof shall be governed by the provisions of T.C.A. §§ 63-2-101 and 102 which provide:

- (i) That costs shall not exceed twenty dollars (\$20.00) for medical records forty (40) pages or less in length and twenty-five cents (25 cents) per page for each page copied after the first forty (40) pages and the actual cost of mailing; and
 - (ii) That they shall be delivered within ten (10) working days of the written request when payment for the same has been timely made; and
 - (iii) That the costs charged for reproducing records of patients involved in a workers' compensation claim shall be as defined in § 50-6-204.
4. Records of Other Health Care Providers - If the information contained in a patient's medical records received from another health care practitioner is relied upon by a physician in reaching a diagnosis or treatment plan for a patient they are considered part of the physician's medical records but only those portions that were relied upon.
 - (i) The records of another health care practitioner shall not be considered as part of a physician's medical record if the information relied upon by the physician in reaching a diagnosis or treatment plan for the patient is recorded directly from the records of the other health care professional into the physician's own medical records for that patient.
 - (ii) Unless the patient provided the medical records from other health care practitioners those records cannot be released to anyone, including the patient, without a properly executed authorization being delivered to the other practitioner(s) who shall be allowed to exercise the options authorized by T.C.A. § 63-2-101 before the records are released.
5. Security - A physician shall institute in all his/her clinical settings, or before accepting employment with a group practice, or contracting with practice management, data entry and/or storage companies, ascertain the existence of the following necessary and adequate safeguards in regards to electronically or digitally stored, and where applicable, paper medical records:
 - (i) That confidential medical information is entered only by authorized personnel, additions to the record are time and date stamped, and the person making the additions is identified in the record; and
 - (ii) That the patient and physician are advised about the existence of computerized databases, as well as all individuals and organizations with some form of access to them in which medical information concerning the patient is stored and the level of access permitted to them prior to the physician's release of the medical information to the entity or entities maintaining the computer databases.
 - (iii) That patient data shall be assigned a security level appropriate for the data's degree of sensitivity, which shall also be used to control who has access to the information.
 - (iv) That there is full compliance with the provisions of T.C.A. § 63-2-101 (b) (2) regarding release of patient identifying information. Such information shall not be released without the express consent of the patient.
 - (v) That when confidential medical data is authorized or required by law or subpoena to be released it is:

- (I) Limited to only those individuals or agencies with a bona fide use for the data; and.
 - (II) Only the data necessary for the bona fide use is released; and
 - (III) Confined to the specific purpose for which the information is requested; and
 - (IV) Limited to the specific time frame requested; and
 - (V) That all organizations or individuals to which the confidential data is released are advised that authorized release of data to them does not authorize their further release of the data to additional individuals or organizations, or subsequent use of the data for other purposes.
- (vi) That the procedures for adding to or changing data on the computerized database specifically identify:
 - (I) The individuals authorized to make changes; and
 - (II) The time periods in which changes take place; and
 - (III) Those individuals who will be informed about changes in the data.
 - (vii) That procedures are in place for purging the computerized data base of archaic or inaccurate data and notification to both the physician and patient prior to the purge.
 - (viii) That there is no mixing of a physician's computerized patient records with those of other computer service bureau clients and that procedures are in place to protect against inadvertent mixing of individual records or segments thereof.
 - (ix) That the computerized medical data base is on-line to the computer terminal only when authorized computer programs requiring the medical data are being used.
 - (x) That individuals and organizations external to the physician's clinical setting are not provided on-line access to a computerized database containing identifiable data from medical records concerning patients.
 - (xi) That access to the computerized data base is controlled through security measures such as passwords, encryption (encoding) of information, and scannable badges or other user identification.
 - (xii) That back-up systems and other mechanisms are in place to prevent data erasure, loss and downtime as a result of hardware or software failure.
 - (xiii) That stringent security procedures are in place to prevent unauthorized access to patient records.
 - (xiv) That personnel audit procedures are in place to establish a record in the event of unauthorized disclosure of medical data.
 - (xv) That terminated or former employees in the physician's clinical setting and/or data processing environment have no access to data from the medical records.

- (xvi) That upon termination of computer services for a physician, those computer files maintained for the physician are physically turned over to the physician. They may be destroyed or erased only if it is established that the physician has another copy in some form.
 - (xvii) That in the event of file erasure, the computer service bureau is required to verify in writing to the physician that the erasure has taken place and identify as specifically as possible the former location and/or description of the data erased.
7. Data Collection Companies - Data collection from computerized or other medical records on behalf of pharmaceutical houses and other businesses for marketing and/or marketing related research purposes is permitted only when the physician:
- (i) Is absolutely certain that the data-collecting does not capture patients' names, addresses or other identifying information; and
 - (ii) The patients have given their permission after being fully informed about the purpose of such disclosures.
8. Business and Insurance Company Physician Employees or Agents
- (i) Where a physician's services are limited to performing an isolated assessment of an individual's health or disability for an employer, business, or insurer, the information obtained by the physician as a result of such examinations is confidential and shall not be communicated to a third party without the individual's prior written consent, unless required by law.
 - (ii) If the individual has authorized the release of medical information to an employer or a potential employer, the physician shall, unless otherwise required by worker's compensation laws, release only that information which is reasonably relevant to the employer's decision regarding that individual's ability to perform the work required by the job.
 - (iii) The physician shall not otherwise discuss the employee's health condition with the employer without the employee's consent.
 - (iv) Whenever statistical information about employees' health is released, all employee identifying information shall be deleted.
- (f) Transfer
1. Records of Physicians upon Death or Retirement - When a physician retires or dies all of his/her patients should be notified by the physician, or his/her authorized representative and urged to find a new physician and be informed that upon authorization, records will be sent to the new physician.
 2. Records of Physicians Departure from a Group - The responsibility for notifying patients of a physician who leaves a group practice shall be governed by the physician's employment contract.
 - (i) Whomever is responsible for that notification must inform all of the physician's patients of his/her departure.
 - (ii) Those patients shall also be notified of the physician's new address and offered the opportunity to have copies of their medical records forwarded to the departing physician at his or her new practice.

- (iii) Physicians shall not enter into employment contracts with group practices the provisions of which in any way interfere with an individual physician's discharge of these duties by authorizing the group to withhold patient lists or other necessary information.
3. Sale of a Medical Practice - A physician or the estate of a deceased physician may sell the elements that comprise his/her practice, one of which is its goodwill, i.e., the opportunity to take over the patients of the seller by purchasing the physician's medical records. Therefore, the transfer of records of patients is subject to the following:
 - (i) The physician (or the estate) must ensure that all medical records are transferred to another physician or entity that is held to the same standards of confidentiality as provided in these rules.
 - (ii) All active patients shall be notified that the physician (or the estate) is transferring the practice to another physician or entity who will retain custody of their records and that at their written request the copies of their records will be sent to another physician or entity of their choice.
 4. Abandonment of Records –
 - (i) It shall be a prima facie violation of T.C.A. 63-9-111 (b) (1) for a physician to abandon his practice without making provision for the security, or transfer, or otherwise establish a secure method of patient access to their records.
 - (ii) Upon notification that a physician in a practice has abandoned his practice and not made provision for the security, or transfer, or otherwise established a secure method of patient access to their records patients should take all reasonable steps to obtain their medical records by whatever lawful means available and should immediately seek the services of another physician.
- (g) Retention of Medical Records – Medical records shall be retained for a period of not less than ten (10) years from the physician's or his supervisees' last professional contact with the patient except for the following:
1. Immunization records shall be retained indefinitely.
 2. Medical records for incompetent patients shall be retained indefinitely.
 3. Mammography records shall be retained for at least twenty (20) years.
 4. X-rays and radiographs shall be retained for at least four (4) years after which if there exist separate interpretive records thereof they may be destroyed.
 5. Medical records of minors shall be retained for a period of not less than ten (10) years after the date on which the patient reaches the age of eighteen (18) or the date of the physician's or his supervisees' last professional contact with the patient whichever is longer.
- (h) Destruction of Medical Records -
1. No record shall be destroyed on an individual basis.
 2. Records shall be destroyed only in the ordinary course of business according to established office operating procedures.

3. Records may be destroyed by burning, shredding, or other effective methods in keeping with the confidential nature of the records.
 4. When records are destroyed, the time, date and circumstances of the destruction shall be recorded and maintained for future reference. The record of destruction need not list the individual patient medical records that were destroyed but shall be sufficient to identify which group of destroyed records contained a particular patient's medical records.
- (6) Violations – Violation of any provision of these rule regarding medical records and/or professional secrets is grounds for disciplinary action pursuant to T.C.A. §§ 63-9-111 (b) (1), and/or (2), and/or (7).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-9-101, 63-9-109, and 63-9-111.

REPEALS

Rule 1050-2-.18 – Medical Records Retention is repealed.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of September, 2001.
(09-27)

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WILDLIFE PROCLAMATIONS

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

PROCLAMATION 01-16

**MIGRATORY BIRD HUNTING REGULATIONS
 2001-2002 SEASON**

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Section 70-4-107 thereof, the Tennessee Wildlife Resources Commission hereby proclaims the following migratory bird hunting regulations effective October 1, 2001: Season dates and limits pending final Federal Frameworks.

SECTION I. HUNTING SEASONS

	Species	Season Opens	Season Closes
A.	Ducks, Coots, and Mergansers		
	Reelfoot Duck Zone	Nov. 17 Dec. 1	Nov. 18 Jan. 18
	Canvasback	Dec. 30	Jan. 18
	Reelfoot Duck Zone shall include the waters of Reelfoot Lake.		
	Remainder of State	Dec. 1 Dec. 15	Dec. 3 Jan. 31
	Canvasback	Jan. 12	Jan. 31
B.	Youth Waterfowl Hunting Season 2-Days Only		
	Reelfoot Duck Zone	Feb. 9	Feb. 10
	Remainder of State	Feb. 9	Feb. 10
	Youth waterfowl hunters must be 15 years of age or younger. An adult at least 18 years of age must accompany the youth hunter into the field. This adult cannot duck hunt but may participate in other open seasons.		
C.	Purple Gallinules and Common Moorhens Reelfoot Duck Zone	Nov. 17 Dec. 1	Nov. 18 Jan. 18

	Species	Season Opens	Season Closes
	Remainder of State	Dec. 1 Dec. 15	Dec. 3 Jan. 20
D.	Virginia Rails and Sora Rails		
	Reelfoot Duck Zone Dec. 1	Nov. 17 Jan. 18	Nov. 18
	Remainder of State Dec. 15	Dec. 1 Jan. 20	Dec. 3
E.	White-fronted Geese	Nov. 22	Feb. 15
F.	Blue, Snow, and Ross' Geese	Nov. 17	Mar. 3
G.	Brant	Dec. 1	Jan. 31
H.	Canada Geese		
	1. Northwest MVP Zone: Mississippi Valley Population Lake, Obion, and Weakley Counties, and Those Portions of Gibson and Dyer Counties Not Included in the Southwest MVP Zone.	Dec. 13	Feb. 15 or earlier if quota is reached ¹
	Harvest Quota - 4,300		
	2. Southwest MVP Zone: Mississippi Valley Population That portion of the state bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45.	Dec. 13	Jan. 31 or earlier if quota is reached
	Harvest Quota - 500		
	3. Kentucky/Barkley Lake Zone: Southern James Bay Population That area west of Highway 13 not in the Northwest and Southwest MVP Zones.	Dec. 13	Jan. 31

¹ Key harvest areas will be monitored and a season closure will result in the Northwest MVP Zone when an estimated 3,000 geese have been harvested in the Reelfoot Quota Zone. The Reelfoot Quota Zone is defined as that area surrounding Reelfoot Lake bounded on the east by State Highways 22 and 157 and County Road #8165, north by the TN-KY state line, west by State highway 78, and south by County Road #8151.

Species	Season Opens	Season Closes
4. Remainder of the State:	Oct. 6 Dec. 1	Oct. 14 Jan. 30

The Remainder of the State includes all counties or portions of counties east of State Highway 13.

SECTION II. SHOOTING HOURS

From ½ hour before sunrise to sunset daily, for all species and seasons

SECTION III. BAG AND POSSESSION LIMITS

A. Ducks and Mergansers

Daily Bag Limit: The Daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be a female), 1 black duck, 2 wood ducks, 1 pintail, 3 scaup, 2 redheads, and 1 canvasback.

The daily bag limit of merganser is 5, only 1 of which may be a hooded merganser.

Possession Limit:

The maximum number of birds which could have legally been taken in two (2) days.

	Daily Bag	Possession
B. Coots and Gallinules	15	30
C. Virginia and Sora Rails	25	25
D. Blue and Snow Geese	20	No Limit
E. White-fronted Goose	2	4
F. Brant	2	4
G. Canada Goose	2	4

SECTION IV. REPEAL OF PRIOR PROCLAMATION

This proclamation repeals Proclamations No. 01-16, dated August 23, 2000.

Proclamation No. 01-16, received and recorded this 18th day of September, 2001. (09-12)

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CERTIFICATE OF APPROVAL

As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning September 4, 2001 and ending September 28, 2001.


RILEY C. DARNELL
Secretary of State

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