

# TAAAR



**November 15, 2001**  
**Volume 27, Number 11**

**RILEY C. DARNELL**  
Secretary of State

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

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Department of State, Authorization No. 305084, 420 copies, November 2001. This public document was promulgated at a cost of \$ 1.90 per copy.

## PREFACE

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

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

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

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

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

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

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

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

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

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## ANNOUNCEMENTS

### DEPARTMENT OF ENVIRONMENT AND CONSERVATION – 0400

#### PETITION FOR DECLARATORY ORDER NOTICE OF HEARING

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

1. Petitioner's Name: Sunbeam Outdoor Products
2. Petitioner's Attorney: Robert Gowan  
STOKES, BARTHOLOMEW, EVANS & PETREE

Address: 424 Church Street, Suite 2800  
Nashville, Tennessee 37219-2386

Telephone number: (615) 259-1450

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

Organization Name: N/A

Address: N/A

4. Summary of the relief requested:

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

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

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

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

A contested case hearing has been scheduled for February 20, 2002, 9:30 a.m., 17<sup>th</sup> Floor, L & C Tower, 401 Church Street, Nashville, TN 37243

The Notice of Hearing of Petition for Declaratory Order set out herein was properly filed in the office of the Secretary of State, Publications Division, on this the 25th day of October 2001. (10-12)

## DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400

### PETITION FOR DECLARATORY ORDER NOTICE OF HEARING

(As required Under T.C.A. §4-5-224)

1. Petitioner's Name: Tennessee Environmental Council  
Tennessee Scenic Rivers Association  
Nashville Grotto of the National Speleological Society, Inc.  
Public Employees for Environmental Responsibility
  
2. Petitioner's Attorneys: Joe W. McCaleb  
Address: 315 East Main Street, Suite 112  
Hendersonville, TN 37075  
Telephone Number: 615-826-7245  
  
 Petitioner's Attorneys: Gary Davis  
Address: P.O. Box 2346  
Knoxville, TN 37901  
Telephone Number: 865-579-6495  
  
 Petitioner's Attorneys: Richard C. Mangelsdorf, Jr.  
Address: Leitner, Williams, Dooley & Napolitan  
2300 Am South Building  
315 Deaderick Street  
Nashville, TN 37219  
Telephone Number: 615-255-7722
  
3. Background:

On June 29, 1999, the City of Spencer applied to the Department of Environment & Conservation for a National Pollutant Discharge Elimination System ("NPDES") Permit. The proposed discharge is Dry Fork Creek which is identified by the Department as a Tier II stream. Pursuant to the Anti-Degradation provision 1200-4-3-.06(4), with regard to Tier II waters prior to the issuance of the Permit, the Board must determine if degradation was to be allowed into Tier II waters due to necessary economic and social development and that any degradation authorized will not interfere with or would become injurious to any existing classified uses. This matter was heard on May 23, 2000 before the Board with a quorum present. The Board determined that degradation would be allowed due to necessary economic and social development and that any degradation authorized will not interfere with or would become injurious to any existing classified uses. After the Board's May 23, 2000 determination, the Department issued to the City of Spencer NPDES Permit No. TN0074802 for discharge into Dry Fork Creek.

4. Summary of the relief requested:

The Petitioner has alleged that the Board's decision of May 23, 2000 was invalid and contrary to law and proper procedures for five specific reasons:

- (a) Failed to adopt and implement an anti degradation policy procedure to give notice and receive public comment prior to making a decision on the application of the Anti-Degradation Statement;
- (b) Failed to give the proper notice required by Administrative Rule 1200-4-1-.03(4)(a) because Tennessee's Anti-Degradation Statement is a water Quality Standard (1200-4-3-.02) and, therefore, within the purview contemplated by Rules 1200-4-1-.03(3)(a) and (4)(a).
- (c) Failed to adopt and implement a procedure to analyze necessary economic and/or social developments required by Administrative Rule 1200-4-3-.06(4) and 40 CFR 131.12 as part of the implementation of the Anti-Degradation Policy.
- (d) Failed to prepare or have prepared a septic tank failure analysis prior to concluding that wide-spread septic tank failure existed in Spencer, Tennessee; and
- (e) Failed to prepare or have prepared a comprehensive alternative study and analysis for treatment of municipal wastewater by Spencer, Tennessee, after the Dry Fork Creek was classified as Tier II waters as that term is defined in Administrative Rule 1200-4-3-.06(2).

Petitioners request that the Board declare its ruling made on May 23, 2000, allowing a discharge into Dry Fork Creek as invalid for one or more of the above-referenced reasons. Petitioners further request the Board to stay the effect of its decision of May 23, 2000, and the effective date of the NPDES Permit issued to the City of Spencer, Tennessee pending its decision on this Petition for Declaratory Order.

Filed with the Department of Environment and Conservation and the Administrative Procedures Division of the Secretary of State's Office on June 20, 2000.

3. Events After Filing of Petition for Declaratory Order:

A contested case hearing has been scheduled for September 25-26, 2001. The contested case was held on September 25-26, 2001. Deliberations began on September 25, 2001; however, the Tennessee Water Quality Control Board adjourned until the October board meeting before concluding its deliberations. The October meeting was scheduled for October 23-24, 2001. Before resuming deliberations on this matter during the October meeting, the City of Spencer submitted to the Water Quality Control Board a petition to be included as a party in the contested case currently before the board, citing the City's strong interest in the case. In a five-to-two vote, the Board approved the entrance of the City of Spencer as a party. Additionally, the Board suspended the case until the November meeting of the board, allowing the City of Spencer time to prepare any further evidence and argument to the Board.

The Board will resume the contested case hearing in this matter on November 27-28, 2001.

If you are interested in intervening or participating in this case in any way or think that you may be affected by the possible outcome of this case, you must file a Petition to Intervene, stating your specific interest(s) in the case and your legal position/argument regarding those interests.

Administrative Procedures Docket Number: 04.30-010298A

Your petition must be filed with:

Judge Charles C. Sullivan, II  
Tennessee Secretary of State  
Administrative Procedures Division  
312 8<sup>th</sup> Avenue, North  
8<sup>th</sup> Floor, William R. Snodgrass Bldg.  
Nashville, TN 37243

Copies must also go to:

Patrick N. Parker and  
Karen H. Stachowski  
Tennessee Dept. of Environment & Conservation  
Office of General Counsel  
312 8<sup>th</sup> Avenue, North  
25<sup>th</sup> Floor, William R. Snodgrass Bldg.  
Nashville, TN 37243-1548

L. Wearen Hughes and  
J. Andrew Goddard  
Bass, Berry & Sims, PLC  
315 Deaderick Street, Suite 2700  
Nashville, TN 37238-3001

Filed in the Department of State on the 30th day of October, 2001. (10-19)

**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 9.50 per cent.

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

**DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180****ANNOUNCEMENT OF MAXIMUM EFFECTIVE RATE OF INTEREST**

The Federal National Mortgage Association has discontinued its free market auction system for commitments to purchase conventional home mortgages. Therefore, the Commissioner of Financial Institutions hereby announces that the maximum effective rate of interest per annum for home loans as set by the General Assembly in 1987, Public Chapter 291, for the month of December 2001 is 9.02 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 5.02 per cent.

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

**GOVERNMENT OPERATIONS COMMITTEES****ANNOUNCEMENT OF PUBLIC HEARINGS**

For the date, time, and, location of this hearing of the Joint Operations committees, call 615-741-3642. The following rules were filed in the Secretary of State's office during the month of October, 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.

|       |              |   |                             |                           |   |   |              |
|-------|--------------|---|-----------------------------|---------------------------|---|---|--------------|
| 10-01 | Oct 3, 2001  | <b>1240 Human Services</b><br>Family Assistance Division                    | Rulemaking<br>Hearing Rules | Amendments                | <i>Chapter 1240-1-50</i><br><i>Standard of Need/Income</i><br>1240-1-50-.20 Standard Of Need/Income   | Phyllis Simpson<br>TN Twr, 26th Fl<br>312 8 <sup>th</sup> Ave N<br>Nashville, TN 37243<br>(615) 741-9534                                  | Dec 17, 2001 |
| 10-02 | Oct 1, 2001  | <b>1200 Health</b><br>Radiological Health                                   | Rulemaking<br>Hearing Rules | Amendments                | <i>Chapter 1200-2-10</i><br><i>Licensing and Registration</i><br>1200-2-10-.24 Registration<br>1200-2-10-.31 Fees for Licensees   | Alan Leiserson<br>TDEC OGC<br>25th Fl Snodgrass/TN Twr<br>312 8th Ave N<br>Nashville TN 37243-1548<br>615-532-0131                        | Dec 15, 2001 |
| 10-04 | Oct 3, 2001  | <b>1660 Wildlife Resources Agency</b>                                       | Rulemaking<br>Hearing Rules | Amendment<br><br>New Rule | <i>Chapter 1660-2-7</i><br><i>Rules and Regulations Governing Operations of Vessels</i><br>1660-2-7-.15 Chickamauga Lake<br>1660-2-7-.23 Watts Bar Lake<br>1660-2-7-.36 Public Facilities | Sheryl Holtam, Attorney<br>TWRA<br>P.O. Box 40747<br>Nashville, TN 37204<br>(615) 781-6606  | Dec 17, 2001 |
| 10-08 | Oct 17, 2001 | <b>0400 Environment and Conservation</b><br>Division of Radiological Health | Rulemaking<br>Hearing Rules | Amendments                | <i>Chapter 1200-2-10</i><br><i>Licensing and Registration</i><br>1200-2-10-.24 Registration<br>1200-2-10-.27 Inspections  | Alan Leiserson<br>OGC<br>25th Fl Snodgrass Twr<br>312 8th Ave N<br>Nashville TN 37243-1548<br>615-532-0131                                | Dec 31, 2001 |
| 10-09 | Oct 17, 2001 | <b>1240 Human Services</b><br>Adult and Family Services Division            | Rulemaking<br>Hearing Rules | Amendments                | <i>Chapter 1240-4-6</i><br><i>Licensure Rules for Child Care Centers Serving School-Age Children</i><br>1240-4-6-.02 Definitions  | William B. Russell<br>Citizens Plaza Bldg, 15th Fl<br>400 Deaderick St<br>Nashville, TN 37248-0006<br>(615) 313-4731                      | Dec 31, 2001 |
| 10-11 | Oct 17, 2001 | <b>1240 Human Services</b><br>Adult and Family Services Division            | Rulemaking<br>Hearing Rules | Amendments                | <i>Chapter 1240-4-3</i><br><i>Licensure Rules for Child Care Centers Serving Pre-School Children</i><br>1240-4-3-.02 Definitions<br>1240-4-3-.14 Appendices                               | William B. Russell<br>Citizens Plaza Bldg, 15th Fl<br>400 Deaderick St<br>Nashville, TN 37248-0006<br>(615) 313-4731                      | Dec 31, 2001 |
| 10-13 | Oct 26, 2001 | <b>1240 Human Services</b><br>Division of Family Assistance                 | Rulemaking<br>Hearing Rules | Amendments                | <i>Chapter 1240-3-2</i><br><i>Coverage Groups Under Medicaid</i><br>1240-3-2-.02 Coverage Of The Categorically Needy<br>1240-3-2-.03 Coverage Of The Medically Needy                      | Phyllis A. Simpson<br>Human Services<br>TN Twr, 26 <sup>th</sup> Fl<br>312 8 <sup>th</sup> Ave N<br>Nashville, TN 37243<br>(615) 741-9534 | Jan 9, 2002  |

|                 |              |  |                          |            |  |   |              |
|-----------------|--------------|--|--------------------------|------------|--|---|--------------|
| 10-13,<br>cont. |              |  |                          |            | <p><i>Technical And Financial Eligibility Requirements For Medicaid</i></p> <p>1240-3-3-.03 Resource Limitations For Categorically Needy</p> <p>1240-3-3-.04 Income Limitations For Categorically Needy</p> <p>1240-3-3-.06 Income Limitations For Medically Needy</p>   |   |              |
| 10-14           | Oct 26, 2001 | <b>0250 Children's Services</b><br>Social Services Division  | Rulemaking Hearing Rules | Amendments | <p><i>Chapter 0250-7-12 Rules Governing Access to Adoption Records for Adoptions Finalized On and After March 16, 1951</i></p> <p>0250-7-12-.01 Purpose and scope of chapter</p> <p>0250-7-12-.02 Definitions</p> <p>0250-7-12-.03 Procedures for provision of services</p> <p>0250-7-12-.04 Persons eligible to request and receive access to records</p> <p>0250-7-12-.05 Procedures for access to records</p> <p>0250-7-12-.06 Procedures for filing Contact Veto or giving consent</p> <p>0250-7-12-.07 Fees and charges for records and access and filing of contact vetoes and other services</p> <p>0250-7-12-.08 Appendix -Forms</p> | Stacy Miller, Esq.<br>DCS Central Legal Office<br>TN Twr<br>312 8 <sup>th</sup> Ave N., 25 <sup>th</sup> Fl<br>Nashville TN 37243<br>(615) 253-2161 | Jan 9, 2002  |
| 10-16           | Oct 26, 2001 | <b>1240 Children's Services</b><br>Program Services Division | Rulemaking Hearing Rules | New Rules  | <p><i>Chapter 0250-7-15 Foster Parents' Bill of Rights</i></p> <p>0250-7-15-.01 Purpose of Chapter</p> <p>0250-7-15-.02 Definitions for Purposes of This Chapter</p> <p>0250-7-15-.03 Procedures for Foster Parents' Bill of Rights</p>  | Stacy Miller, Esq.<br>DCS Central Legal Office<br>TN Twrs<br>312 8th Ave N., 25th Fl<br>Nashville TN 37243<br>(615) 253-2161                        | Jan 9, 2002  |
| 10-18           | Oct 30, 2001 | <b>1700 Treasury</b><br>Bank Collateral Pool Board           | Proposed Rules           | Amendments | <p><i>Chapter 1700-4-1 Bank Collateral Pool</i></p> <p>1700-4-1-.04 Determination of Collateral Pledge Level</p> <p>1700-4-1-.07 Reporting by Qualified Public Depository</p> <p>1700-4-1-.10 Withdrawal from Collateral Pool Participation</p>  | Mary Krause<br>General Counsel<br>10th Fl, Andrew Jackson Bldg<br>Nashville, TN 37243-0230<br>(615) 741-7063  | Feb 28, 2002 |

|       |              |  |   |            |  |   |   |
|-------|--------------|--|---|------------|--|---|---|
| 10-20 | Oct 30, 2001 | <b>1240 Human Services</b><br>Adult and Family Services Division | Rulemaking Hearing Rules                  | New Rules  | <i>Chapter 1240-4-7 Report Cards and Rated Licensing for Child Care Agencies</i><br>1240-4-7-.01 Purpose and Scope<br>1240-4-7-.02 Definitions<br>1240-4-7-.03 Report Card<br>1240-4-7-.04 Star-Quality Child Care Program<br>1240-4-7-.05 Re-Evaluations and Reviews of Report Cards and Agency Ratings | William B. Russell<br>Citizens Plaza Bldg, 15th Fl<br>400 Deaderick St<br>Nashville, TN 37248-0006<br>(615) 313-4731                          | Jan 13, 2002  |
| 10-22 | Oct 31, 2001 | <b>1340 Safety</b><br>Division of Driver License Issuance        | Emergency Rules                           | Amendments | <i>Chapter 1340-1-13 Classified and Commercial Driver Licenses</i><br>1340-1-13-.12 Proof of Date of Birth and Identification  | Wanda Adams<br>Assistant Director<br>Driver License Issuance<br>Dept of Safety<br>1150 Foster Ave<br>Nashville, TN 37249-1000<br>615.251.5310 | Oct 31, 2001 through April 14, 2002   |
| 10-23 | Oct 31, 2001 | <b>1220 TN Regulatory Authority</b>                              | Rulemaking Hearing Rules                  | Amendments | <i>Chapter 1220-4-2 Regulations for Telephone Companies</i><br>1220-4-2-.56 Verification of Orders for Changes for Long Distance Carriers  | Richard Collier<br>TN Regulatory Authority<br>460 James Robertson Parkway<br>Nashville, TN 37343<br>(615) 741-2904                            | Jan 14, 2002  |
| 10-25 | Oct 31, 2001 | <b>1220 TN Regulatory Authority</b>                              | Notice of Stay of Effective Date of Rules |            | 1220-4-2-.55 Regulatory Reform<br>Originally filed July 13, 2001; effective Sept 25, 2001. New effective date for 1st stay: Nov 1, 2001. New effective date: Dec 31, 2001  | K. David Waddell<br>TN Regulatory Authority<br>460 James Robertson Parkway<br>Nashville, TN 37343<br>(615) 741-2904                           | Originally filed July 13, 2001; effective Sept 25, 2001. New effective date for 1st stay: Nov 1, 2001. New effective date: Dec 31, 2001 |

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

Applications will be heard at the December 12, 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 October 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

University of Tennessee Memorial Hospital  
1924 Alcoa Highway  
Knoxville (Knox Co.), TN 37920  
Gary Thomas – (865)—544-6646  
CN0109-067

The relocation of three heart catheterization laboratories into renovated space on the second floor of University Memorial Hospital at 1924 Alcoa Highway, Knoxville, Tennessee. The project also includes the addition of a fourth heart catheterization laboratory at the same location with the purchase of X-ray imaging system for cardiac, interventional, and diagnostic procedures. The proposed modification to the facility also includes shell space for future development of two additional heart catheterization laboratories.  
\$7,792,000.00

Johnson City Medical Center  
400 N. State of Franklin Road  
Johnson City (Washington Co.), TN 37604  
Kelly Crepps – (423)—431-6052  
CN0109-068

The initiation of mobile Positron Emission Tomography (PET) at Johnson City Medical Center, 400 N. State of Franklin Road, Johnson City, Tennessee. The project includes the acquisition of a mobile PET Scanner.  
\$608,000.00

| NAME AND ADDRESS  | DESCRIPTION  |
|---|--|
| Baptist Treatment Center in Murfreesboro<br>400 North Highland Avenue<br>Murfreesboro (Rutherford Co.), TN 37130<br>Rebecca Climer – (615)—849-4109<br>CN0109-069 | The establishment of a women’s specialty hospital containing two beds. The proposed hospital will be constructed in space presently on the campus of Middle Tennessee Medical Center at 400 N. Highland Avenue, Murfreesboro, Tennessee. The proposed hospital will provide obstetrical/gynecology services and surgical services for women. If this application is approved, Middle Tennessee Medical Center will decrease its licensed bed capacity by two beds.<br>\$1,500,000.00 |
| Baptist Women’s Treatment Center<br>2000 Church Street<br>Nashville (Davidson Co.), TN 37236<br>Michael Crews – (615)—284-4817<br>CN0109-070                      | The establishment of a women’s specialty hospital containing two beds. The proposed hospital will be constructed in space presently on the campus of Baptist Hospital at 2000 Church Street, Nashville, Tennessee. The proposed hospital will provide obstetrical/gynecology services and surgical services for women. If this application is approved, Baptist Hospital will decrease its licensed bed capacity by two beds.<br>\$3,941,975.00                                      |
| Tennessee Orthopaedic Alliance, P.A.<br>301 21 <sup>st</sup> Avenue North<br>Nashville (Davidson Co.), TN 37203<br>Jerry W. Taylor – (615)—726-1200<br>CN0109-071 | The relocation of a magnetic resonance imaging (MRI) service from 2410 Patterson Street, Suite 108, Nashville, Tennessee to an office location at 301 21 <sup>st</sup> Avenue North, Nashville, Tennessee.<br>\$281,325.00   |
| South Surgery Center, L.P.<br>5496 Airways Boulevard<br>Memphis (Shelby Co.), TN 38116<br>Jane Lucchesi – (901)—726-2981<br>CN0109-072                            | The establishment of a multi-specialty ambulatory surgical treatment center located at 5496 Airways Blvd., Memphis, Tennessee.<br>\$3,820,857.00   |
| Middle Tennessee Surgical Care, LLC<br>1326 Sparta Street<br>McMinnville (Warren Co.), TN 37110<br>Stan Bullen – (931)—235-8999<br>CN0109-073                     | The establishment of a multi-specialty ambulatory surgical treatment center (ASTC) to be located at 1326 Sparta Street, McMinnville, Tennessee.<br>\$2,800,000.00  |
| Clarksville Imaging Center<br>2320 Wilma Rudolph Boulevard<br>Clarksville (Montgomery Co.), TN 37040<br>John Wellborn – (615)—665-2022<br>CN0109-075              | The establishment of an outpatient diagnostic center (ODC), the initiation of magnetic resonance imaging (MRI) services, and the acquisition of an MRI scanner as well as computed tomography and ultrasound imaging equipment. The ODC will be located at 2320 Wilma Rudolph Boulevard, Clarksville, Tennessee.<br>\$2,379,000.00   |

| NAME AND ADDRESS   | DESCRIPTION  |
|--|--|
| Centennial Medical Center<br>2300 Patterson Street<br>Nashville (Davidson Co.), TN 37203<br>John Wellborn – (615)—665-2022<br>CN0109-076 | The initiation of Positron Emission Tomography (PET) imaging services and the acquisition of PET imaging equipment to be located in Centennial Medical Center, 2300 Patterson Street, Nashville, Tennessee.<br>\$ 1,215,000.00 |

## **TENNESSEE REGULATORY AUTHORITY - 1220**

### **STAY OF EFFECTIVE DATE OF RULES**

The Tennessee Regulatory Authority hereby gives notice that the seventy-five (75) day period for amendments to Paragraph (2) of Rule 1220-4-2-.55 Regulatory Reform filed with the Department of State on the 13<sup>th</sup> day of July, 2001, to have become effective on the 25<sup>th</sup> day of September, 2001 and stayed by the government operations committee until the 1<sup>st</sup> of November, 2001, pursuant to T.C.A. § 4-5-215(b), are hereby stayed for sixty (60) days.

The notice of stay set out herein was properly filed in the Department of State on the 31<sup>st</sup> day of October, 2001, and will be effective from the date of filing for a period of 60 days. The stay of the effective date of rules will remain in effect through the 31<sup>st</sup> day of December, 2001, unless properly withdrawn by the agency. (10-25)

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## **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)

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

#### **STATEMENT OF NECESSITY REQUIRING SECOND FILING OF EMERGENCY RULES**

For a copy of this emergency rule, contact Wanda Adams, Assistant Director Driver License Issuance, 1150 Foster Avenue, Nashville, TN 37249-1000, Department of Safety, 615.251.5296.

Pursuant to Tennessee Code Annotated §4-5-208, I am promulgating a second filing of emergency rules regarding verification of residence and identification for those seeking driver licenses upon initial issuance.

The first set of Emergency Driver License Rules, which were filed on June 22, 2001, will expire on December 4, 2001. Proposed Permanent Driver License Rules were filed on August 27, 2001. The deadline for the August issue of the Tennessee Administrative Register was August 15, 2001. Thus, the rules will be published in the September issue. The proposed Permanent Driver License Rules will not be effective until December 28, 2001. Thus, the agency will not be covered by rules between December 4 and December 28, 2001.

The first set of emergency rules was filed because of an immediate danger to the public health, safety and welfare caused by the passage of Senate Bill 1266, House Bill 983, enacted on May 3, 2001, and designated as Public Chapter 158. Passage of this bill led to an increased number of applications for driver licenses. Emergency rules were necessary to ensure that only Tennessee residents were receiving driver licenses pursuant to law and that qualified applicants received licenses in a timely manner.

Recent events have shown that obtaining proper identification from applicants is of utmost importance for the protection of the public.

Mike Greene  
Department of Safety

**EMERGENCY RULES  
OF THE  
TENNESSEE DEPARTMENT OF SAFETY  
DIVISION OF DRIVER LICENSE ISSUANCE**

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

**NEW RULES**

**TABLE OF CONTENTS**

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

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

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

- (b) Form I-94 issued to the applicant by the Immigration and Naturalization Service;
- (c) Employment authorization document (E.A.D.) issued to the applicant by the Immigration and Naturalization Service,
- (d) I-551 issued to the applicant by the Immigration and Naturalization Service.

**Authority:** T.C.A. §55-50-202.

### AMENDMENTS

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

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

**Authority:** T.C.A. §55-50-202.

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

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

**Authority:** T.C.A. §55-50-202.

The emergency rules set out herein were properly filed in the Department of State on the 31st day of October, 2001 and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 14th day of April, 2002. (10-22)

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Treasurer suspends such requirement, the selected financial information otherwise required in the quarterly reports shall be obtained by the Treasurer from such other source as the Treasurer deems reliable.

**Authority:** T.C.A. §§9-4-508(7), 9-4-518(b) and 9-4-508(8).

1700-4-1-.10 Withdrawal from Collateral Pool Participation is amended by deleting subparagraph (1)(c) in its entirety and by substituting instead the following:

- (c) Reports. The withdrawing qualified public depository shall continue to file monthly and annual reports with the Treasurer during the period in which the contingent liability agreement is in effect as well as the quarterly reports required under rule 1700-4-1-.07 unless the quarterly reports are suspended pursuant to subparagraph (2)(c) thereof.

**Authority:** T.C.A. §§9-4-508(7) and 9-4-516(c).

1700-4-1-.10 Withdrawal from Collateral Pool Participation is further amended by deleting subparagraph (2)(c) in its entirety and by substituting instead the following:

- (c) Reports. The withdrawing qualified public depository shall continue to file monthly and annual reports with the Treasurer during the period in which the contingent liability agreement is in effect as well as the quarterly reports required under rule 1700-4-1-.07 unless the quarterly reports are suspended pursuant to subparagraph (2)(c) thereof.

**Authority:** T.C.A. §§9-4-508(7) and 9-4-517(c).

The proposed rule amendments set out herein were properly filed in the Department of State on the 30th day of October, 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 February, 2002. (10-18)

## PROPOSED RULES

### DEPARTMENT OF TREASURY - 1770 BANK COLLATERAL POOL BOARD

#### CHAPTER 1700-4-1 BANK COLLATERAL POOL

Presented herein are proposed rule amendments of the Collateral Pool Board submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Board to promulgate these 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 Treasury Department, Division of Cash Management, 11<sup>th</sup> Floor, Andrew Jackson State Office Building located at Fifth and Deaderick, Nashville, Tennessee 37243, and in the Administrative Procedures Division of the Department of State, Eighth Floor, William R. Snodgrass Tower, Eighth Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the rule amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

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

The text of the proposed amendments is as follows:

#### AMENDMENTS

1700-4-1-.04 Determination of Collateral Pledge Level is amended by deleting the third sentence from part 4 of subparagraph (1)(b) and by substituting instead the following:

4. The Board shall determine from time to time the benchmark levels referred to in parts 1 through 3 of this subparagraph above. Such benchmarks may differ from the benchmark levels established by the Board for evaluating collateral pool admission pursuant to rule 1700-4-1-.03(2)(c). The financial information necessary in determining whether the benchmark levels have been met by a qualified public depository for a given quarter shall be taken from the quarterly report submitted pursuant to rule 1700-4-1-.07(2), or, if the quarterly report requirement is suspended, from the source described in rule 1700-4-1-.07(2)(c).

*Authority:* T.C.A. §§9-4-508(7) and 9-4-508(1)(D).

1700-4-1-.07 Reporting by Qualified Public Depository is amended by adding the following new subparagraph at the end of paragraph (2) thereof:

- (c) Notwithstanding subparagraphs (2)(a) and (2)(b) above, the Treasurer may by written notice to all qualified public depositories suspend the requirement of filing the quarterly reports described in this rule. If the

## **PUBLIC NECESSITY RULES**

### **PUBLIC NECESSITY RULES NOW IN EFFECT**

- 0620 - Department of Finance and Administration - Public necessity rules complying with or to implement the provisions of any federal waiver” permitted under the TennCare Medical Assistance Program, chapter 1200-13-12 Bureau of TennCare, 10 T.A.R. (October 2001) - Filed September 28, 2001; effective through March 12, 2002. (09-31)
- 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)
- 1200 - Department of Health, Bureau of Health Services Administration, Division of General Environmental Health - Public necessity rules dealing with licensure of body piercing technicians, permitting and inspection of body piercing establishments, and regulating body piercing procedures, Chapter 1200-23-6 Body Piercing, 10 T.A.R. (October 2001) - Filed September 6, 2001; effective through February 18, 2002. (09-01)
- 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)

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## **RULEMAKING HEARINGS**

### **BOARD OF DIETITIAN / NUTRITIONIST EXAMINERS - 0470**

There will be a hearing before the Tennessee Board of Dietitian / Nutritionist Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, and 63-25-107. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 10<sup>th</sup> 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 0470-1-.01, Definitions, is amended by deleting paragraph (6) in its entirety and renumbering the remaining paragraphs accordingly.

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

Rule 0470-1-.05, Procedures for Licensure, is amended by deleting paragraph (9) in its entirety and substituting instead the following language, so that as amended, the new paragraph (9) shall read:

- (9) An applicant shall submit verification of having passed the Commission on Dietetic Registration of the American Dietetic Association's published examination or its successor examination(s) pursuant to rule 0470-1-.08.

**Authority:** *T.C.A. §§4-5-202, 4-5-204, 63-25-107, and 63-25-108.*

Rule 0470-1-.05, Procedures for Licensure, is amended by deleting paragraph (8) in its entirety and renumbering the remaining paragraphs accordingly.

**Authority:** *T.C.A. §§4-5-202, 4-5-204, 63-25-107, and 63-25-108.*

Rule 0470-1-.09, Renewal of License, is amended by deleting subparagraph (1) (b), part (1) (c) 1., subparagraph (1) (d), and paragraph (2) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (b), part (1) (c) 1., subparagraph (1) (d), and 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 licensees who have not renewed their license or certificate online via the Internet, a renewal application form will be mailed to each licensee to the last address provided to the Board. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal.

(1) (c) 1. A completed renewal application form.

- (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 or certificates processed pursuant to rule 1200-10-1-.10.

(2) Reinstatement of an Expired License

- (a) Licenses that have expired may be reinstated upon meeting the following conditions:

1. Payment of all past due renewal fees; and
2. Payment of the late renewal fee provided in rule 0470-1-.06.

- (b) Renewal issuance decisions pursuant to this rule may be made administratively or upon review by any board member or the board's designee.

- (c) Anyone submitting a renewal form or letter which is found to be untrue may be subjected to disciplinary action as provided in rule 0470-1-.15.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-25-107, 63-25-110, 63-25-111, and 63-25-112.

Rule 0470-1-.15, Disciplinary Actions, Civil Penalties, Informal Settlements, 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 63-25-107.

The notice of rulemaking set out herein was properly filed in the Department of State on the 11th day of October, 2001. (10-06)

**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, Memphis Environmental Assistance Center, Conference Room, 2510 Mt. Moriah, Suite E-645, Memphis, Tennessee 38115-1520 on December 18, 2001, at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

**SUBSTANCE OF PROPOSED RULES**

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

**AMENDMENTS**

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

| Site Number        | Site Name                                   |
|--------------------|---|
| Shelby County (79) |   |
| 79-799             | Tennessee Air National Guard<br>Memphis, 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 15th of October, 2001. (10-07)

**DEPARTMENT OF HEALTH - 1200  
DIVISION OF VITAL RECORDS**

There will be a hearing before the Department of Health to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, Section 68-3-103. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Sequoyah Room, Ground Floor of the Cordell Hull Building located at 425 5th Avenue, North, Nashville, Tennessee, at 9:00 a.m. Central Time on the 17th day of December, 2001.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of Health to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Department of Health to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Health's ADA Coordinator, at (615) 741-6350, 11th Floor, Andrew Johnson Tower, Nashville, Tennessee 37247.

For a copy of this notice of rulemaking hearing, contact: Paula Taylor, Office of Vital Records, Department of Health, Central Services Building, 1st Floor, 421 5th Avenue, North, Nashville, Tennessee 37247, or at (615) 532-2678.

**SUBSTANCE OF PROPOSED RULES**

**AMENDMENTS**

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|  |                                    |   |
|--|------------------------------------|---|
| 1200-7-1-.07 Disposition of Reports of Fetal Death and Induced Terminations of Pregnancy | 1200-7-1-.11 Disclosure of Records | 1200-7-1-.13 Fees For Copies And Searches |
|--|------------------------------------|---|

Chapter 1200-7-1-.07 Disposition of Reports of Fetal Death and Induced Terminations of Pregnancy is amended by deleting the existing Chapter 1200-7-1-.07 in its entirety and substituting the following so that the amended rule shall read:

- (1) Reports of induced termination of pregnancy are statistical reports only and are not to be incorporated into the official records of the Division of Vital Records. The reports are to be forwarded directly to the Department of Health within ten (10) days after the procedure by the person in charge of the institution in which the procedure was performed or by the physician in attendance, if the induced termination did not occur in an institution. The State Registrar is authorized to dispose of such reports when all statistical processing of the reports has been accomplished. However, the State Registrar may establish an electronic file of such records, so that they will be available for future statistical and research projects; provided, however, such file shall not be made a part of the official records and the reports shall not be made available for the issuance of certified copies. Such file shall be retained for as long as the State Registrar deems necessary and it shall then be destroyed consistent with laws and rules pertaining to record retention.
- (2) A report of fetal death shall be submitted for each fetal death of a fetus weighing five hundred (500) grams or more, or, in the absence of weight, for each fetal death of twenty-two (22) completed weeks gestation or more. The State Registrar shall not maintain any report of fetal death for a fetus weighing less than five hundred (500) grams or, if weight is not reported, that shows less than twenty-two (22) completed weeks of gestation.
- (3) The report of fetal death is to be submitted within ten (10) days after delivery to the State Registrar by the person in charge of the institution in which the fetus was delivered; or by the physician in attendance, if the fetal death did not occur in an institution; or by the appropriate medical examiner, if the fetal death occurred without medical attendance.

- (4) Certified copies of a report of fetal death may be issued only to the parent(s) named on the report and only if the length of gestation as shown on the report is twenty-four (24) weeks or more. Certified copies will not show medical information related to pregnancy history and delivery.
- (5) Except as noted in 1200-7-1-.07(4), reports of fetal death are not copied, issued, or otherwise released, except for statistical or research purposes approved by the State Registrar.

**Authority:** T.C.A. §§4-5-202, 68-3-103, 68-3-504, and 68-3-505.

Paragraph (1) of Chapter 1200-7-1-.11 Disclosure of Records is amended by adding a new paragraph (e) which reads as follows:

- (e) In order to protect the personal, identifying information of children who are adopted or legitimated within the first year after birth, requests for listings or copies of the database of birth records that are not for research purposes and are received from non-governmental agencies will not be filled until eighteen (18) months past the end of the calendar year in which the birth occurred.

**Authority:** T.C.A. §§4-5-202, 68-3-103, and 68-3-205.

Chapter 1200-7-1-.13 Fees for Copies and Searches is amended by deleting the existing Chapter 1200-7-1-.13 in its entirety and substituting the following so that the amended rule shall read:

- (1) No certified or uncertified copy or service shall be provided until the current fee for such copy or service is received, unless specific approval has been obtained from the State Registrar or otherwise provided for by statute or regulation. If an applicant claims that he did not receive a certificate that was purchased from the Office of Vital Records, he may use his receipt or cancelled check to purchase another copy within forty-five (45) days; after forty-five (45) days, he must remit the fee in order to obtain another copy.
- (2) The State Registrar shall determine the cost, including staff time, computer time, copying cost, and supplies, for handling any non-routine statistical or research project or any other non-routine service other than those described below. The person requesting any such non-routine service will be responsible for paying the cost associated with completing the service.
- (3) Fees for services from the Office of Vital Records.
  - (a) For a 3-year search of the files and issuance of one certified abstract of a birth record if found: ..... \$7.00
  - (b) For each additional certified abstract of the same birth record issued at the same time: ..... \$4.00
  - (c) For a 3-year search of the files and issuance of one certified or uncertified copy of a birth, marriage, or divorce record if found: ..... \$12.00
  - (d) For each additional copy of the same birth, marriage, or divorce record issued at the same time ..... \$4.00
  - (e) For a 3-year search of the files and issuance of a certified or uncertified copy of a death record: ..... \$7.00

- (f) For a 3-year search of the files of reports of fetal death and issuance of one certified copy if found ..... \$7.00
- (g) For preparing a new certificate of birth by adoption, legitimation, or order of parentage: ..... \$15.00
- (h) For amending a birth, death, marriage, or divorce certificate one year or more after the date of the event: ..... \$15.00
- (i) For preparing and filing a report of an adoption for a foreign-born person adopted in Tennessee: ..... \$15.00
- (j) For preparing and filing a delayed certificate of birth, death, marriage, or divorce: ..... \$15.00
- (k) For amending a birth certificate to remove the named father based on a Rescission of Voluntary Acknowledgment of Paternity, unless the requestor submits an Affidavit of Indigency to waive the fee entirely ..... \$15.00
- (l) For a certified or uncertified copy of the supporting documentation used to file or amend a record, which must be requested at the same time as the copy of the record is requested, per document ..... \$4.00
- (m) For opening a sealed file and providing one copy of the contents of the sealed file ..... \$30.00
- (n) For a search in a specified year designated by the requestor of the birth, death, marriage, or divorce files for the purpose of providing verified information on a requested record, even if the record is not found and no information from it can be provided \$12.00 per record
- (o) Additional handling charge for non-routine, expedited service and all special delivery mail that requires special attention: ..... \$5.00
- (p) Up to three free copies of the death certificate of a veteran of the United States Armed Services may be provided. The person requesting such copy must be related to the deceased within two (2) degrees of collateral or lineal kinship.
- (q) For a birth, marriage, or divorce record copy, certified or uncertified, issued to another government agency ..... \$12.00
- (r) For a death record copy, certified or uncertified, issued to another government agency: ..... \$7.00
- (s) For a certified birth abstract, issued to another government agency ..... \$7.00
- (t) For a permit to cremate a dead body ..... \$25.00

**Authority:** T.C.A. §§4-5-202, 24-7-118, 68-3-103,68-3-205 and 68-3-207.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of October, 2001. (10-21)

**DEPARTMENT OF HUMAN SERVICES - 1240**  
**DIVISION OF FAMILY ASSISTANCE**

There will be a hearing before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to Tennessee Code Annotated §§ 4-5-201 et seq. and 71-1-105(12). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-204 and will take place in the 15<sup>th</sup> Floor, Puett Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee at 10:00 a.m. CDT on Tuesday, December 18, 2001.

Any individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Department of Human Services 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 or the date the party intends to review such filings, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services' ADA Coordinator, Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5570.

For a copy of this notice of rulemaking hearing, contact: Phyllis Simpson, Assistant General Counsel, Department of Human Services, Tennessee Tower, 312 8th Avenue North, 26th Floor, Nashville, TN 37243, telephone number (615) 741-9534.

**\SUBSTANCE OF PROPOSED RULES**  
**OF**  
**THE TENNESSEE DEPARTMENT OF HUMAN SERVICES**  
**FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-2**  
**FAMILY ASSISTANCE UNIT**  
**FOOD STAMP PROGRAM**

**AMENDMENTS**

Rule 1240-1-2-.02 Household Concept - Food Stamps Only, is amended by deleting Part 5 under Subparagraph (a) Paragraph (1), and by substituting the following language, so that, as amended, Part 5 Paragraph (1), Subparagraph (a) shall read:

5. An individual who is sixty (60) years of age or older (and the spouse of such individual) who lives with others and who is unable to purchase and prepare meals separately because he/she suffers from a disability considered permanent under the Social Security Act or some other non-disease-related severe permanent disability. In order for this individual and spouse to be eligible for separate household status, the combined gross income of all others with whom the individual resides (excluding the individual's and his/her spouse's income) cannot exceed one hundred sixty five percent (165%) of the poverty level as shown in the Table below:

|                            |        |        |        |        |        |        |        |        |        |        |
|----------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| No of Persons in Household | 1      | 2      | 3      | 4      | 5      | 6      | 7      | 8      | 9      | 10     |
| 165% of Poverty            | \$1182 | \$1597 | \$2012 | \$2427 | \$2843 | \$3258 | \$3673 | \$4088 | \$4504 | \$4920 |

Add \$416 for each additional person

**Authority:** TCA §§ 4-5-201 et seq.; 71-1-105; 71-3-157; and 71-3-158; 7 USC § 2015; 21 USC § 862a; 7 CFR 273.1; 7 CFR 273.1(a)(2)(ii); 273.2(e); 273.5; 273.10 and 273.16.

**CHAPTER 1240-1-4  
FINANCIAL ELIGIBILITY REQUIREMENTS**

**AMENDMENTS**

Rule 1240-1-4-.27 Standard Of Need/Income, is amended by deleting Table I under Paragraph (1) Subparagraph (a) Part 2 in its entirety, and by inserting a new Table I, so that, as amended, Table I shall read:

Table I

|                             |       |        |        |        |        |        |        |        |        |        |
|-----------------------------|-------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| No. of Persons in Household | 1     | 2      | 3      | 4      | 5      | 6      | 7      | 8      | 9      | 10     |
| Gross Income Standard       | \$931 | \$1258 | \$1585 | \$1913 | \$2240 | \$2567 | \$2894 | \$3221 | \$3549 | \$3877 |

|                             |        |        |        |        |        |        |        |        |        |        |
|-----------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| No. of Persons in Household | 11     | 12     | 13     | 14     | 15     | 16     | 17     | 18     | 19     | 20     |
| Gross Income Standard       | \$4205 | \$4533 | \$4861 | \$5189 | \$5517 | \$5845 | \$6173 | \$6501 | \$6829 | \$7157 |

For each additional member add \$328

Rule 1240-1-4-.27 Standard Of Need/Income, is amended by deleting Table II under Paragraph (1), Subparagraph (b), Part 2 in its entirety, and by inserting a new Table II, so that, as amended, Table II shall read:

Table II

|                             |       |       |        |        |        |        |        |        |        |        |
|-----------------------------|-------|-------|--------|--------|--------|--------|--------|--------|--------|--------|
| No. of Persons in Household | 1     | 2     | 3      | 4      | 5      | 6      | 7      | 8      | 9      | 10     |
| Maximum Net Income          | \$716 | \$968 | \$1220 | \$1471 | \$1723 | \$1975 | \$2226 | \$2478 | \$2730 | \$2982 |

|                             |        |        |        |        |        |        |        |        |        |        |
|-----------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| No. of Persons in Household | 11     | 12     | 13     | 14     | 15     | 16     | 17     | 18     | 19     | 20     |
| Maximum Net Income          | \$3234 | \$3486 | \$3738 | \$3990 | \$4242 | \$4494 | \$4746 | \$4998 | \$5250 | \$5502 |

For each additional member add \$252

Rule 1240-1-4-.27 Standard Of Need/Income, is amended by deleting Table III under Paragraph (1), Subparagraph (c), Part 2 in its entirety, and by inserting a new Table III, so that, as amended, Table III shall read:

Table III

|                             |       |       |       |       |       |       |       |       |       |        |
|-----------------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|--------|
| No. of Persons in Household | 1     | 2     | 3     | 4     | 5     | 6     | 7     | 8     | 9     | 10     |
| Maximum Coupon Allotment    | \$135 | \$248 | \$356 | \$452 | \$537 | \$644 | \$712 | \$814 | \$916 | \$1018 |

|                             |        |        |        |        |        |        |        |        |        |        |
|-----------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| No. of Persons in Household | 11     | 12     | 13     | 14     | 15     | 16     | 17     | 18     | 19     | 20     |
| Maximum Coupon Allotment    | \$1120 | \$1222 | \$1324 | \$1426 | \$1528 | \$1630 | \$1732 | \$1834 | \$1936 | \$2038 |

For each additional member add \$102

Rule 1240-1-4-.27 Standard Of Need/Income, is amended by deleting Table IV under Paragraph (1), Subparagraph (d) in its entirety, and by inserting a new Table IV, so that, as amended, Table IV shall read:

Table IV  
Food Stamp Deductions

|   |            |
|---|------------|
| Standard Deduction<br>(All Households)                        | \$134      |
| Maximum Dependent Care for Child Less than 2 Years of Age     | \$200      |
| Maximum Dependent Care for Child Over Age 2 or Adult          | \$175      |
| Maximum Shelter Deduction for Non-Elderly/Disabled Households | \$354      |
| Maximum Shelter Deduction for Elderly/ Disabled Households    | No Maximum |

**Authority:** TCA §§ 4-5-201 et seq.; 71-1-105; 71-3-158; 45 CFR 233.20(a)(2)(i)-(iii); 7 CFR 272.3; 7 CFR 273.9; and 7 CFR 273.10.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of October, 2001. (10-15)

**BOARD OF MEDICAL EXAMINERS - 0880  
COMMITTEE ON PHYSICIAN ASSISTANTS**

There will be a hearing before the Board of Medical Examiners and its Committee on Physician Assistants to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-19-104, 63-19-105, 63-19-201, and 63-19-202. 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 5<sup>th</sup> Avenue North, Nashville, Tennessee at 2:30 p.m. (CST) on the 3<sup>rd</sup> 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 RULES**

**AMENDMENTS**

Rule 0880-3-.01 Definitions, is amended by adding the following language as a new, appropriately numbered paragraph:

- ( ) FCVS - The Federation Credentials Verification Service which is a service offered by the Federation of State Medical Boards that provides primary source identification and verification of physician assistant core credentials as required in licensure applications by the states.

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

Rule 0880-3-.05 Procedures for Licensure, is amended by adding the following language as new paragraph (3):

- (3) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Committee's Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

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

Rule 0880-3-.07 Application Review, Approval and Denial, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (8) so that as amended, the new paragraphs (4) and (8) shall read:

- (4) If an application is incomplete when received by the Committee's Administrative Office, or the reviewing Committee member or the Committee consultant determine additional information is required from an applicant before an initial determination can be made, the Committee's administrative office shall notify the applicant of the information required.
- (a) The applicant shall cause the requested information to be received by the Committee's administrative office on or before the ninetieth (90<sup>th</sup>) day after the initial letter notifying the applicant of the required information is sent.
- (b) If requested information is not timely received, the application file may be considered abandoned and may be closed by the Committee's administrator. If that occurs, the applicant shall be notified that the Committee will not consider issuance of a license 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 and submission of such new supporting documents as is required by the Committee or the Committee consultant.
- (8) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Committee's Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

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

Rule 0880-3-.08 Examinations, is amended by adding the following language as new paragraph (2):

- (2) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Committee's Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

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

Rule 0880-3-.12 Continuing Education, is amended by deleting subparagraph (1) (a), subpart (2) (b) 1. (i), and paragraph (3) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (a), subpart (2) (b) 1. (i), and paragraph (3) shall read:

- (1) (a) All physician assistants must, within a two (2) year period prior to the application for license renewal, complete one hundred (100) hours of continuing medical education satisfactory to the Committee. The division of hours between Category I and Category II continuing medical education must be consistent with the requirements of the N.C.C.P.A. as described on the most current N.C.C.P.A. "Continuing Medical Education Logging Form."
- (2) (b) 1. (i) The National Commission on the Certification of Physician Assistants' "Continuing Medical Education Logging Certificate";
- (3) Acceptable continuing education - To be utilized for satisfaction of the continuing education requirements of this rule, the continuing education program must be approved in content, structure and format by the A.M.A., the A.A.P.A., or the N.C.C.P.A.

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

Rule 0880-3-.14 Temporary License, is amended by adding the following language as new paragraph (4):

- (4) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Committee's Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

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

Rule 0880-10-.01 Definitions, is amended by adding the following language as a new, appropriately numbered paragraph:

- ( ) FCVS - The Federation Credentials Verification Service which is a service offered by the Federation of State Medical Boards that provides primary source identification and verification of orthopedic physician assistant core credentials as required in licensure applications by the states.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-105, 63-19-201, and 63-19-202.

Rule 0880-10-.05 Procedures for Licensure, is amended by adding the following language as new paragraph (17):

- (17) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Committee's Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-105, 63-19-201, and 63-19-202.

Rule 0880-10-.07 Application Review, Approval and Denial, is amended by deleting paragraph (3) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (6) so that as amended, the new paragraphs (3) and (6) shall read:

- (3) If an application is incomplete when received by the Committee's Administrative Office, or the reviewing Committee member or the Committee consultant determine additional information is required from an applicant before an initial determination can be made, the Committee's Administrative Office shall notify the applicant of the information required.
  - (a) The applicant shall cause the requested information to be received by the Committee's administrative office on or before the ninetieth (90<sup>th</sup>) day after the initial letter notifying the applicant of the required information is sent.
  - (b) If requested information is not timely received, the application file may be considered abandoned and may be closed by the Committee's administrator. If that occurs, the applicant shall be notified that the Committee will not consider issuance of a license 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 and submission such new supporting documents as is required by the Committee or the Committee's consultant.

- (6) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Committee's Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

*Authority:* T.C.A. §§ 4-5-202, 4-5-204, 63-19-104, 63-19-105, 63-19-201, and 63-19-202.

Rule 0880-10-.08 Examinations, is amended by adding the following language as new paragraph (2):

- (2) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Committee's Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

*Authority:* T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-105, 63-19-201, and 63-19-202.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of October, 2001. (10-17)

### **BOARD OF OSTEOPATHIC EXAMINATION - 1050**

There will be a hearing before the Board of Osteopathic Examination to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-107, 63-9-101, 63-9-107, 63-9-109, 63-9-111, 63-9-112, and Public Chapters 245, 322, and 327 of the Public Acts of 2001. 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 5<sup>th</sup> 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, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN, 37247-1010, (615) 532-4397.

## SUBSTANCE OF PROPOSED RULES

### AMENDMENTS

Rule 1050-2-.01 Definitions, is amended by deleting paragraph (1) in its entirety and renumbering the remaining paragraphs accordingly, and is further amended by adding the following language as an appropriately numbered new paragraph:

- ( ) COMVEX – The Comprehensive Osteopathic Medical Variable Purpose Exam

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

Rule 1050-2-.02 Fees, is amended by deleting the language of paragraph (2) in its entirety and substituting instead the following new language, so that as amended that paragraph shall read as follows:

- (2) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Tennessee Board of Osteopathic Examination.

**Authority:** T.C.A. §§4-3-101, 4-5-202, 4-5-204, 63-1-106, 63-9-101, 63-9-104, 63-9-104, and 63-9-105.

1050-2-.05 Application Review, Approval, Denial, Interviews and Conditioned, Restricted and Locum Tenens Licensure, is amended by deleting paragraph (3), part (4) (b) 1., and paragraph (7) in their entirety and substituting instead the following new language, so that as amended, the new paragraph (3), the new part (4) (b) 1., and the new paragraph (7) shall read as follows:

- (3) If an application is incomplete when received by the Board Administrative Office or the reviewing Board member or the Board consultant/designee determines additional information is required from an applicant before an initial determination is made, the Board Administrative Office shall notify the applicant of the information required.
- (a) 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.
- (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 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. The earlier application will not be incorporated by reference.
- (4) (b) 1. An applicant has a right to a contested case hearing only if the adverse decision on an application was based upon subjective or discretionary criteria and only if the request is in writing and received on or before the thirtieth (30th) day after receipt of the notice by the applicant.
- (7) An applicant (except reciprocity applicants) whose examination or combination of examinations, as provided in Rule 1050-2-.06 (3), is certified as having been successfully completed on or before the fifth (5th) year preceding the date of application shall be required to successfully complete the Special Purpose Examination (SPEX), the Comprehensive

Osteopathic Medical Special Purpose Licensure Exam (COMSPEX), or the Comprehensive Osteopathic Medical Variable Purpose Licensure Exam (COMVEX).

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, 63-9-107, and 63-9-111.

1050-2-.06 Examinations, is amended by adding the following language as new paragraph (2), and renumbering the remaining paragraphs accordingly.

- (2) An applicant (except reciprocity applicants) whose examination or combination of examinations, as provided in paragraph (3), is certified as having been successfully completed on or before the fifth (5th) year preceding the date of application shall be required to successfully complete the Special Purpose Examination (SPEX), the Comprehensive Osteopathic Medical Special Purpose Licensure Exam (COMSPEX), or the Comprehensive Osteopathic Medical Variable Purpose Licensure Exam (COMVEX).

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, and 63-9-107.

1050-2-.07 Licensure Renewal, is amended by deleting the catchline and rule in its entirety and substituting instead the following new catchline and rule, so that as amended the new rule shall read as follows:

**1050-2-.07 LICENSURE RENEWAL AND REINSTATEMENT.**

- (1) All licensees must renew their licenses to be able to legally continue in practice. License renewal is governed by the following:
  - (a) The due date for license renewal is its expiration date which is the last day of the month in which a license holder's birthday falls pursuant to the Division of Health Related Boards "biennial birthdate renewal system" contained in rule 1200-10-1-.10.
  - (b) Methods of Renewal – licensees may accomplish renewal by one of the following methods:
    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 - Licensees who have not renewed their authorization online via the Internet, will have a renewal application form mailed to them at the last address provided by them to the Board. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal. To be eligible for renewal a licensee must submit to the Division of Health Related Boards on or before the license's expiration date the following:
      - (i) A completed and signed renewal application form.
      - (ii) The renewal and state regulatory fees as provided in Rule 1050-2-.02.
  - (c) Any renewal application received after the expiration date but before the last day of the month following the expiration date must be accompanied by the Late Renewal Fee provided in Rule 1050-2-.02.
  - (d) Any individual who fails to comply with the license renewal rules and/or notifications sent to them concerning failure to timely renew shall have their license processed pursuant to rule 1200-10-1-.10.

- (e) Anyone submitting a signed renewal form, electronically or otherwise, which is found to be fraudulent or untrue may be subject to disciplinary action.
  - (f) Any licensee who receives notice of failure to timely renew pursuant to rule 1200-10-1-.10, and who, on or before the last day of the month following the month in which the license expires, executes and files in the Board's administrative office an affidavit of retirement pursuant to Rule 1050-2-.08 may have their licenses retired effective on their licensure expiration date.
- (2) Licenses processed pursuant rule 1200-10-1-.10 for failure to renew may be reinstated upon meeting the following conditions:
- (a) Obtain, complete and submit a renewal/reinstatement/reactivation application; and
  - (b) At the discretion of the Board, either appear before it or submit a notarized statement setting forth the good cause for failure to renew; and
  - (c) Submit, along with the application, payment of all past due renewal fees; state regulatory fee and the late renewal fee provided in rule 1050-2-.02; and
  - (d) Submit evidence of being current in continuing medical education or an acceptable plan for making up all continuing medical education requirements
  - (e) If derogatory information or communication is received during the renewal process, if requested by the Board or its duly authorized representative, appear before the Board, a Board member, a screening panel when the individual is under investigation or the Board Designee for an interview and/or be prepared to meet or accept other conditions or restrictions as the Board may deem necessary to protect the public.
  - (f) 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 or accept other conditions or restrictions as the Board may deem necessary to protect the public.
  - (g) Any licensee who fails to renew licensure prior to the expiration of the third (3rd) year after which renewal is due may be required to successfully complete a written or oral examination.
- (3) Renewal issuance and reinstatement decisions pursuant to this Rule may be made administratively subject to review by the Board, any Board member, or the Board Designee.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-9-101, 63-9-107, 63-9-109, and 63-9-111.

1050-2-.09 Officers, Consultants, Records, and Declaratory Orders, is amended by deleting the catchline in its entirety and substituting instead the following new catchline and new paragraph (9), so that as amended the catchline and paragraph (9) shall read as follows:

**1050-2-.09 OFFICERS, RECORDS, MEETING REQUESTS, CERTIFICATES OF FITNESS, REPLACEMENT LICENSES, CONSULTANTS, ADVISORY RULINGS, DECLARATORY ORDERS AND SCREENING PANELS.**

- (9) Screening Panels - Any screening panel(s) established pursuant to Public Chapter 322 of the Public Acts of 2001:
  - (a) Shall have concurrent authority with the Board members and any individual designated by the Board pursuant to paragraph (4), to do the acts enumerated in that paragraph subject to the conditions contained therein.

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

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, 63-9-111, and Public Chapter 322 of the Public Acts of 2001.

1050-2-.10 Licensure Discipline and Civil Penalties, is amended by adding the following new language as subparagraph (1) (k), so that as amended the new subparagraph (1) (k) shall read as follows:

- (1) (k) Order Modifications – The Board retains jurisdiction, and for good cause shown will entertain petitions, to modify the disciplinary portion of orders issued as a consequence of contested cases decided by it or any of its duly constituted panels, but will not under any circumstances consider modification of any findings of fact, conclusions of law, or policy reasons contained in the original orders.

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

Rule 1050-2-.12 Continuing Education, is amended by deleting the language of that rule in its entirety and substituting instead the following new language, so that as amended the rule shall read as follows:

- (1) Hours Required
  - (a) All licensees must complete, during the two (2) calendar years (January 1 - December 31) that precede the licensure renewal year, forty (40) hours of Category I-A and II-A continuing medical education as defined in the most current annual American Osteopathic Association Yearbook and Directory, in courses approved by the Board.
  - (b) The Board approves a course for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a calendar year toward the required hourly total regardless of the number of times the course is attended or completed by any individual.
- (2) Proof of Compliance - All licensees must retain independent documentation of completion of all continuing education hours and compliance with the provisions of these rules.
  - (a) This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was acquired.
  - (b) This documentation must be produced for inspection and verification, if requested in writing by the Division during its verification process.
  - (c) Documentation verifying the licensee's completion of the continuing education hours may consist of any one (1) or more of the following:
    1. Certificates verifying the individual's attendance at the continuing education programs described above.
    2. An original letter on official institution stationery from the instructor of the graduate level course verifying that the course was completed and listing the number of credit hours of attendance completed by the individual; or
    3. Official transcript verifying credit hours earned. One (1) semester academic credit hour is equivalent to fifteen (15) clock hours for the purpose of certification renewal. Credit for auditing will be for the actual clock hours in attendance, not to exceed the academic credit.
- (3) Acceptable Continuing Education - To be utilized for satisfaction of the continuing education requirements of this rule, the continuing education program must be approved in content, structure and/or format by the A.O.A. or the Accreditation Council for Continuing Medical Education (A.C.C.M.E.).
- (4) Violations and Disciplinary Orders
  - (a) Any licensee who fails to obtain the required continuing education hours or otherwise comply with the provisions of these rules will be subject to disciplinary action.
  - (b) Continuing education hours obtained as a result of compliance with the terms of Board Orders in any disciplinary action or obtained pursuant to licensure or renewal restriction/conditions mandated by the Board shall not be credited toward the continuing education hours required to be obtained in any calendar year.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, 63-9-107 and Public Chapter 245, Public Acts of 2001.

1050-2-.13 Scope of Practice, is amended by deleting the catchline of that rule and substituting instead the catchline “Specifically Regulated Areas and Aspects of Medical Practice,” and is further amended by deleting paragraphs (3) and (5) in their entireties and substituting instead the following new paragraphs (3) and (5), and is further amended by adding the following new paragraphs (8) and (9), so that as amended the new catchline and paragraphs (3), (5), (8) and (9) shall read as follows:

#### **1050-2-.13 SPECIFICALLY REGULATED AREAS AND ASPECTS OF MEDICAL PRACTICE**

- (3) Prescription Legibility- Any physician writing a prescription on a pre-printed prescription blank with multiple physicians’ names shall circle his or her name on the prescription. Any physician writing a prescription on a prescription blank which does not have the physician’s name pre-printed on it shall use a hand stamp with his or her name on it below the signature on the prescription. If a hand stamp or a pre-printed prescription blank are not available or not practicable, the physician shall legibly print his or her full name below the signature line for identification purposes. This rule in no case replaces the need for a signature on the prescription. The physician’s signature is required as the official certifying act of the physician. Physicians may utilize a legible and specifically identifying electronic signature to satisfy the requirements of this rule and as the official certifying act of the physician.
- (5) Guidelines for the Use of Controlled Substances for the Treatment of Pain –
  - (a) Purposes and Intent
    1. The Board recognizes that principles of quality medical practice dictate that the people of the State of Tennessee have access to appropriate and effective pain relief. The appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as reduce the morbidity and costs associated with untreated or inappropriately treated pain. The Board encourages physicians to view effective pain management as a part of quality medical practice for all patients with pain, acute or chronic, and it is especially important for patients who experience pain as a result of terminal illness. All physicians should become knowledgeable about effective methods of pain treatment as well as statutory requirements for prescribing controlled substances.
    2. Inadequate pain control may result from physicians’ lack of knowledge about pain management or an inadequate understanding of addiction. Fears of investigation or sanction by federal, state and local regulatory agencies may also result in inappropriate or inadequate treatment of chronic pain patients. Accordingly, these guidelines have been developed pursuant to the Tennessee Intractable Pain Treatment Act to clarify the Board’s position on pain control, specifically as related to the use of controlled substances, to alleviate physician uncertainty and to encourage better pain management.
    3. The Board recognizes that controlled substances, including opioid analgesics, may be essential in the treatment of acute pain due to trauma or surgery and chronic pain, whether due to cancer or non-cancer origins. Physicians are referred to the U.S. Agency for Health Care and Research Clinical Practice Guidelines for a sound approach to the management of acute and cancer-related pain. The medical management of pain should be based on current knowledge and research and include the use of both pharmacologic and non-pharmacologic modalities. Pain should be assessed and treated promptly, and the quantity and frequency of doses should be adjusted according to the intensity and duration of the pain. Physicians should recognize that tolerance and physical dependence are normal consequences of sustained use of opioid analgesics and are not synonymous with addiction.
    4. The Board is obligated under the laws of the State of Tennessee to protect the public health and safety. The Board recognizes that inappropriate prescribing of controlled substances, including opioid analgesics, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Physicians should be diligent in preventing the diversion of drugs for illegitimate purposes.

5. Physicians should not fear disciplinary action from the Board or other state regulatory or enforcement agency for prescribing, dispensing or administering controlled substances, including opioid analgesics, for a legitimate medical purpose and in the usual course of professional practice. The Board will consider prescribing, ordering, administering or dispensing controlled substances for pain to be for a legitimate medical purpose if based on accepted scientific knowledge of the treatment of pain or if based on sound clinical grounds. All such prescribing must be based on clear documentation of unrelieved pain and in compliance with applicable state or federal law.
  6. Each case of prescribing for pain will be evaluated on an individual basis. The board will not take disciplinary action against a physician for failing to adhere strictly to the provisions of these guidelines, if good cause is shown for such deviation. The physician's conduct will be evaluated to a great extent by the treatment outcome, taking into account whether the drug used is medically and/or pharmacologically recognized to be appropriate for the diagnosis, the patient's individual needs—including any improvement in functioning—and recognizing that some types of pain cannot be completely relieved.
  7. The Board will judge the validity of prescribing based on the physician's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social and work-related factors. The following guidelines are not intended to define complete or best practice, but rather to communicate what the Board considers to be within the boundaries of professional practice.
- (b) Guidelines - The Board adopts the following guidelines when evaluating the use of controlled substances for pain control:
1. Evaluation of the Patient - A complete medical history and physical examination must be conducted and documented in the medical record. The medical record should document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The medical record also should document the presence of one or more recognized medical indications for the use of a controlled substance.
  2. Treatment Plan - The written treatment plan should state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and should indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician should adjust drug therapy to the individual medical needs of each patient. Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.
  3. Informed Consent and Agreement for Treatment - The physician should discuss the risks and benefits of the use of controlled substances with the patient, persons designated by the patient or with the patient's surrogate or guardian if the patient is incompetent. The patient should receive prescriptions from one physician and one pharmacy where possible.
  4. Periodic Review - At reasonable intervals based on the individual circumstances of the patient, the physician should review the course of treatment and any new information about the etiology of the pain. Continuation or modification of therapy should depend on the physician's evaluation of progress toward stated treatment objectives, such as improvement in patient's pain intensity and improved physical and/or psychosocial function, i.e., ability to work, need of health care resources, activities of daily living and quality of social life. If treatment goals are not being achieved, despite medication adjustments, the physician should reevaluate the appropriateness of continued treatment. The physician should monitor patient compliance in medication usage and related treatment plans.

5. Consultation - The physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. The management of pain in patients with a comorbid psychiatric disorder may require extra care, monitoring, documentation and consultation with or referral to an expert in the management of such patients.
  6. Medical Records - The physician should keep accurate and complete records to include the medical history and physical examination; diagnostic, therapeutic and laboratory results; evaluations and consultations; treatment objectives; discussion of risks and benefits; treatments; medications (including date, type, dosage and quantity prescribed); instructions and agreements; and periodic reviews. Records should remain current and be maintained in an accessible manner and readily available for review.
- (c) No physician is required to provide treatment to patients with intractable pain with opiate medications but when refusing to do so shall inform the patient that there are physicians who specialize in the treatment of severe, chronic, intractable pain with methods including the use of opioid medications.
  - (d) If a physician provides medical care for persons with intractable pain, with or without the use of opioid medications, to the extent that those patients become the focus of the physician's practice the physician must be prepared to document specialized medical education in pain management sufficient to bring the physician within the current standard of care in that field which shall include education on the causes, different and recommended modalities for treatment, chemical dependency and the psycho/social aspects of severe, chronic intractable pain.
  - (e) The treatment of persons with an acute or chronic painful medical condition who also require treatment for chemical dependency by a physician shall be governed by subsections (c) and (d) of Section 8 of Public Chapter 327 of the Public Acts of 2001.
- (8) Code of Ethics - The Board adopts, as if fully set out herein and to the extent that it does not conflict with state law, rules or Board Position Statements, as its code of medical ethics the "Code of Ethics" published by the A.O.A. as it may, from time to time, be amended.
    - (a) In the case of a conflict the state law, rules or position statements shall govern. Violation of the Board's code of ethics shall be grounds for disciplinary action pursuant to T.C.A. § 63-9-111 (b) (1).
    - (b) A copy of the A.O.A. "Code of Ethics" may be obtained from the American Osteopathic Association, 142 E. Ontario Street, Chicago, IL 60611 or by phone at (312) 202-8138.
  - (9) Employment of Physicians –
    - (a) Medical Orders, Referrals or Providing Supervision, Responsibility and/or Control – Throughout Tennessee Code Annotated, Title 63 and 68 there are provisions of the law requiring that identified health care practitioners may provide services or practice only upon the order of, or pursuant to referrals from, or under the supervision, control and/or responsibility of a licensed physician.
      1. A physician cannot issue effective and ethical medical orders, or make effective and ethical referrals, or exercise effective and ethical supervision, responsibility and/or control as an employee of, or incident to any contract of employment for the purposes of issuing medical orders to, or making referrals to, or providing supervision, responsibility and/or control with any health care professional, or group, company, corporation or other such entity comprised thereof whose practice is required to be performed, or whose services are required to be rendered, pursuant to the order of, or pursuant to referrals from, or under the supervision, or responsibility and/or control of a physician.

2. It shall be a prima facie violation of T.C.A. § 63-9-111 (b) (1) for a physician to:
  - (i) Be an employee of such health care professionals, or group, company, corporation or other such entity comprised thereof who provide their services to persons who are not clearly identifiable as patients of the physician for the purpose of issuing orders, providing referrals or providing supervision, or responsibility and/or control.
  - (ii) Enter into a contract for the issuance of orders to, or the making of referrals to, or the provision of supervision, responsibility and/or control for such health care professionals, or group, company, corporation or other such entity comprised thereof, who provide their services to persons who are not clearly identifiable as patients of the physician.

(b) Nothing in this rule shall be construed as

1. Affecting the employment or contract provisions, or services incident thereto, of T.C.A. § 68-11-205 (b) or (c); or
2. Affecting contracts entered into by physicians for the employment of other health care practitioners for the provision of their health care services to the patients of the employing physician.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, 63-9-111, and Public Chapter 327 of the Public Acts of 2001.

Rule 1050-3-.01 Definitions, is amended by deleting paragraph (2) “Administrative Revocation” in its entirety and renumbering the remaining paragraphs accordingly.

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

1050-3-.09 Renewal, is amended by deleting the catchline and rule in its entirety and substituting instead the following new catchline and rule, so that as amended the new rule shall read as follows:

**1050-3-.09 RENEWAL, RETIREMENT AND REINSTATEMENT.**

- (1) Renewal - All certificate holders must renew their certificates to be able to legally continue in practice. Renewal is governed by the following:
  - (a) The due date for renewal is its expiration date which is the last day of the month in which a certificate holder’s birthday falls pursuant to the Division of Health Related Boards “biennial birthdate renewal system” contained in rule 1200-10-1-.10.
  - (b) Methods of Renewal – Renewal may accomplish by one of the following methods:
    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](http://www.tennesseeanytime.org)
    2. Paper Renewals – Certificate holders who have not renewed their authorization online via the Internet, will have a renewal application form mailed to them at the last address provided by them to the Board. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting

all requirements for renewal. To be eligible for renewal a certificate holder must submit to the Division of Health Related Boards on or before the certificate's expiration date the following:

- (i) A completed and signed renewal application form.
  - (ii) The renewal and state regulatory fees as provided in Rule 1050-3-.06.
- (c) Any renewal application received after the expiration date but before the last day of the month following the expiration date must be accompanied by the Late Renewal Fee provided in Rule 1050-3-.06.
- (d) Any individual who fails to comply with the renewal rules and/or notifications sent to them concerning failure to timely renew shall have their certificates processed pursuant to rule 1200-10-1-.10.
- (e) Anyone submitting a signed renewal form, electronically or otherwise, which is found to be fraudulent or untrue may be subject to disciplinary action.
- (f) Any certificate holder who receives notice of failure to timely renew pursuant to rule 1200-10-1-.10, and who, on or before the last day of the month following the month in which the certificate expires, executes and files in the Board's administrative office an affidavit of retirement pursuant to paragraph (2) of this rule may have their certificates retired effective on their certificate's expiration date..
- (2) Certificate Retirement
- (a) Certificate holders who wish to retain their certification but not actively practice will not be required to comply with the certification renewal process by doing the following:
    - 1. Obtain from, complete and submit to the Board Administrative Office an affidavit of retirement form.
    - 2. Submit any documentation which may be required by the form to the Board Administrative Office.
  - (b) Upon successful application for retirement of certification with completion and receipt of all proper documentation to the Board's satisfaction, the Board shall register the certificate as retired. Any person who has a retired certificate may not practice in Tennessee.
- (3) Reactivation - Any certificate holder whose certificate has been retired or processed pursuant to rule 1200-10-1-.10 for failure to timely renew may re-enter active practice by doing the following:
- (a) Submit a written request for a Reactivation Application to the Board Administrative Office; and
  - (b) Fully complete and submit the Board's Reactivation Application along with:
    - 1. For those reactivating a retired certificate:
      - (i) Payment of renewal and state regulatory fees as provided in rule 1050-3-.06; and
      - (ii) Verification of continuing education compliance pursuant to rule 1050-3-.12.
    - 2. For those who are reactivating a certificate processed pursuant to rule 1200-10-1-.10 for failure to timely renew:
      - (i) Payment of all accumulated past due renewal and state regulatory fees and the late renewal fee; and

- (ii) Verification of continuing education compliance pursuant to rule 1050-3-.12.
- (c) If requested, after review by the Board, a designated Board member, or the Board's consultant appear before the either Board, or a duly constituted panel of the Board, or another Board member, or the Board Designee for an interview regarding continued competence in the event of certification retirement, administrative revocation or other practice inactivity in excess of two (2) years and meet such other requirements the Board feels necessary to establish current levels of competency.
- (2) Anyone submitting a signed reinstatement form or other documentation which is found to be untrue may be subjected to disciplinary action as provided in T.C.A. §63-9-111.
- (3) Renewal issuance and reinstatement decisions pursuant to this rule may be made administratively subject to review by the Board, any Board member or the Board Designee.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-9-101, and 63-9-112.

The notice of rulemaking set out herein was properly filed in the Department of State on the 11th day of October, 2001. (10-05)

## **TENNESSEE REGULATORY AUTHORITY - 1220**

There will be a hearing before the Tennessee Regulatory Authority to consider the promulgation of rules and the amendment of rules pursuant to Tennessee Code Annotated, Section 65-2-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Hearing Room of the Tennessee Regulatory Authority Building, 460 James Robertson Parkway, Nashville, Tennessee at 1:30 p.m. on the 17th day of December, 2001.

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

For a copy of this notice of rulemaking hearing, contact: K. David Waddell, Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN, and (615) 741-2904.

**SUBSTANCE OF PROPOSED RULES****AMENDMENTS**

Chapter 1220-1-2 Practice and Procedure – Contested Cases is amended by adding the following new section:

**1220-1-2-.15 COMPANY TO COMPANY COMPLAINTS**

- (1) Any company who files a formal complaint to initiate a contested case under rule 1220-1-2-.09 may request an expedited ruling when the dispute directly affects the ability of a company to provide uninterrupted service to its customers or precludes the provisioning of any service, functionality, or network element. The Authority or a Hearing Officer has the discretion to determine whether the resolution of the complaint may be expedited based on the complexity of the issues or other factors deemed relevant. Except as specifically provided in this rule, the provisions and procedures of the rules relating to complaints and contested cases apply.
  - (a) Any request for expedited ruling shall be filed at the same time and in the same document as the complaint filed pursuant to rule 1220-1-2-.09. Such a complaint shall be entitled “Complaint and Request for Expedited Ruling.” In addition to the requirements listed in rule 1220-1-2-.09, the complaint shall also state the specific circumstances that make the dispute eligible for an expedited ruling. The complainant shall serve a copy of the complaint on the respondent by hand-delivery or facsimile on the same day as it is filed with the Authority.
  - (b) The respondent shall file a response to the complaint within seven (7) days after the filing of the complaint, including its position on the request for an expedited ruling. The respondent shall serve a copy of the response on the complainant by hand-delivery or facsimile on the same day as it is filed with the Authority.
  - (c) After reviewing the complaint and the response, the Hearing Officer or the Authority will determine whether the complaint warrants an expedited ruling. If so, the Hearing Officer or the Authority shall schedule a hearing, which shall commence no later than thirty (30) days after the filing of the complaint. The Hearing Officer or the Authority shall notify the parties, not less than three business days before the hearing of the date, time, and location of the hearing. If the Hearing Officer or the Authority determines that the complaint is not eligible for an expedited ruling, the Hearing Officer or Authority shall so notify the parties within five days of the filing of the response.
- (2) Any company who files a complaint to initiate a contested case under rule 1220-1-2-.09 with or without a “Request for Expedited Ruling” may also request interim relief pending the resolution of the merits, relating to the ability of a company to provide uninterrupted service or precludes the provisioning of scheduled service.
  - (a) Any request for interim relief shall be filed at the same time and in the same document as the complaint. The title of the complaint shall include the phrase “Request for Interim Relief.” The complaint shall set forth the specific grounds supporting the request for interim relief pending resolution of the dispute, as well as a statement of the potential harm that may result if interim relief is not provided. A complaint that includes a request for interim relief shall be verified by affidavit. Such complaint must list the contact person, address, telephone number, and facsimile number for both the complainant and respondent.
  - (b) The complainant shall serve a copy of the complaint and request for an interim relief on the respondent by hand-delivery or facsimile on the same day as the pleading is filed with the Authority. The complainant shall certify on the pleading filed with the Authority that service has been accomplished in compliance with this rule.

- (c) Within seven (7) days of the filing of a complaint and request for interim relief, the Hearing Officer or the Authority shall conduct a hearing to determine whether interim relief should be granted during the pendency of the contested case process. The Hearing Officer or the Authority will notify the parties of the date and time of the hearing by facsimile within forty-eight (48) hours of the filing of a complaint and request for interim relief. The parties shall be prepared to present their positions and evidence on factors including but not limited to: the type of service requested; the economic and technical feasibilities of providing that service; and the potential harm in providing or not providing the service. The Hearing Officer or the Authority will issue an interim ruling on the request based on the evidence provided at the hearing.
  - (d) The Hearing Officer or the Authority shall issue a written ruling on the request within ten (10) days of the close of the hearing and will notify the parties by facsimile of the ruling. The interim ruling will be effective throughout the contested case proceeding until a final decision is issued pursuant to these rules.
- (3) For good cause shown, the Authority may waive the provisions of this section in order to prevent manifest injustice or hardship to the complaining party.

**Authority:** *T.C.A. §§65-2-102 and 103.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of October, 2001. (10-24)

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### **CERTIFICATE OF APPROVAL**

*As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning October 1, 2001 and ending October 31, 2001.*

RILEY C. DARNELL  
*Secretary of State*

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