

TAAAR



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Secretary of State

Division of Publications
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PREFACE

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

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

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

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

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

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

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

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TABLE OF CONTENTS

ANNOUNCEMENTS

Financial Institutions, Department of	
Announcement of Formula Rate of Interest	1
Announcement of Maximum Effective Rate of Interest	1
Government Operations Committees	
Announcement of Public Hearings	1
Health Facilities Commission	
Notice of Beginning of Review Cycle	5
Mental Health and Developmental Disabilities, Department of	
Announcement for Community Provider Operating Guidelines	7

EMERGENCY RULES

Emergency Rules Now in Effect	9
-------------------------------------	---

PROPOSED RULES

Education, Board of	11
Finance and Administration, Department of	21
Labor and Workforce Development, Department of	25

PUBLIC NECESSITY RULES

Public Necessity Rules Now in Effect	37
--	----

RULEMAKING HEARINGS

Health, Department of	39
Medical Examiners, Board of	42
Occupational and Physical Therapy Examiners, Board of	43
Transportation, Department of	48

CERTIFICATION	53
---------------------	----

CHANGE OF ADDRESS FORM	55
------------------------------	----

ORDER FORM	57
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DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180

ANNOUNCEMENT OF FORMULA RATE OF INTEREST

Pursuant to the provisions of Chapter 464, Public Acts of 1983, the Commissioner of Financial Institutions hereby announces that the formula rate of interest is 8.75 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 May 2002 is 9.94 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 5.94 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 March 2002. All persons who wish to testify at the hearings or who wish to submit written statements on information for inclusion in the staff report on the rules should promptly notify Fred Standbrook, Suite G-3, War Memorial Building, Nashville, TN 37243-0059, (615) 741-3074.

SEQ	FILE DATE	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-01	Mar 1, 2001	0940 Mental Health and Developmental Disabilities Office of Licensure	Rulemaking Hearing Rules	Amendments	<i>Chapter 0940-5-4 Life Safety Licensure Rules</i> 0940-5-4-.11: Residential Occupancies	Cynthia C. Tyler Mental Health and Developmental Disabilities 26th Fl Snodgrass-TN Twr 312 8th Ave N Nashville, TN 37243 615-632-6518	May 15, 2002
03-02	Mar 4, 2002	0620 Finance and Administration	Proposed Rules	New Rules	<i>Chapter 0620-3-8 Contract Management and Subrecipient Monitoring</i> 0620-3-8-.01 Scope 0620-3-8-.02 Applicability 0620-3-8-.03 Contract Management and Subrecipient Monitoring-Distinguished 0620-3-8-.04 Contract Management 0620-3-8-.05 Subrecipient Monitoring 0620-3-8-.06 Exceptions to Rules	Mark Cherpack Finance and Administration Suite 2100 312 8th Ave N Snodgrass TN Twr Nashville TN 37243 (615) 253-4706	July 29, 2002
03-03	Mar 5, 2002	0400 Environment and Conservation Division of Water Supply	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-5-1 Public Water Systems</i> 1200-5-01-.32 Fees for Public Water Systems	David Draughon Water Supply 6th Fl L&C Twr Nashville TN 37243-1549 615-532-0152	May 19, 2002
03-04	Mar 5, 2002	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendments	<i>Chapter 1660-1-2 Rules and Regulations for Birds</i> 1660-1-2-.02 Migratory Bird Hunting	Sheryl Holtam, Attorney Wildlife Resources Agency P.O. Box 40747 Nashville, TN 37204 615-781-6606	May 19, 2002
03-05	Mar 5, 2002	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendments	<i>Chapter 1660-1-8 Rules and Regulations for Hunts</i> 1660-1-8-.05 Permit Applications and Drawings	Sheryl Holtam, Attorney Wildlife Resources Agency P.O. Box 40747 Nashville, TN 37204 615-781-6606	May 19, 2002
03-06	Mar 11, 2002	0800 Labor and Workforce Development Division of Workers' Compensation Uninsured Employers Fund	Proposed Rules	New Rules	<i>Chapter 0800-2-15 Uninsured Employers Fund</i> 0800-2-15-.01 Definitions 0800-2-15-.02 Investigation of Non-Compliance 0800-2-15-.03 Departmental Actions 0800-2-15-.04 Monetary Penalties 0800-2-15-.05 Notice of Hearing 0800-2-15-.06 Discovery 0800-2-15-.07 Issuance of Subpoenas	Peter B. Halverstadt Labor and Workforce Development 2nd Fl Andrew Johnson Twr 710 James Robertson Pw Nashville, TN 37243-0661 (615) 532-2403	July 29, 2002

SEQ	FILE DATE	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-06, cont.					0800-2-15-.08 Continuances 0800-2-15-.09 Effect of Employer's Failure to Appear 0800-2-15-.10 Representation at Show Cause Hearing 0800-2-15-.11 Pre-Hearing Matters 0800-2-15-.12 Order of Proceedings of Show Cause Hearings 0800-2-15-.13 Scope of Examination and Rules of Evidence 0800-2-15-.14 Burden of Proof 0800-2-15-.15 Determinations pursuant to Show Cause Hearing 0800-2-15-.16 Collection of Penalties 0800-2-15-.17 Injunctions 0800-2-15-.18 Appeal		
03-10	Mar 20, 2002	0400 Environment and Conservation Division of Superfund	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-1-13 Hazardous Substance Remedial Action</i> 1200-1-13-.13 List of Inactive Hazardous Substance Sites (06-501)	Robert L. Powell Division of Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	June 3, 2002
03-11	Mar 20, 2002	0400 Environment and Conservation Division of Superfund	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-1-13 Hazardous Substance Remedial Action</i> 1200-1-13-.13 List of Inactive Hazardous Substance Sites (33-508)	Robert L. Powell Division of Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	June 3, 2002
03-12	Mar 20, 2002	0400 Environment and Conservation Division of Superfund	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-1-13 Hazardous Substance Remedial Action</i> 1200-1-13-.13 List of Inactive Hazardous Substance Sites (79-799)	Robert L. Powell Division of Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	June 3, 2002
03-16	Mar 28, 2002	0400 Environment and Conservation Division of Water Supply	Rule Making Hearing Rules	Amendments	<i>Chapter 1200-4-6 Underground Injection Control</i> 1200-4-6-.02 Definitions	Alan Leiserson OGC TN Twrs 312 8th Ave N Nashville TN 37243-1548 615-532-0125	June 11, 2002
03-17	Mar 28; 2002	0400 Environment and Conservation Division of Water Supply	Rule Making Hearing Rules	Amendments	<i>Chapter 1200-4-6 Underground Injection Control</i> 1200-4-6-.02 Definitions 1200-4-6-.10 Class I Wells	Alan Leiserson OGC TN Twrs 312 8th Ave N Nashville TN 37243-1548 615-532-0125	June 11, 2002

SEQ	FILE DATE	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-18	Mar 28, 2002	0520 Education	Proposed Rule	Amendment	<i>Chapter 0520-1-3 Minimum Requirements for the Approval of Public Schools</i> 0520-1-3-.03 Administration of Schools, Requirement B	Karen Weeks State Board of Education 9th Fl Andrew Johnson Twr 710 James Robertson Pw Nashville, TN 37243-1050 (615) 532-3528	July 29, 2002
03-19	Mar 28, 2002	0520 Education	Proposed Rule	Amendment	<i>Chapter 0520-1-3 Minimum Requirements for the Approval of Public Schools</i> 0520-1-3-.06 Graduation, Requirement E	Karen Weeks State Board of Education 9th Fl Andrew Johnson Twr 710 James Robertson Pw Nashville, TN 37243-1050 (615) 532-3528	July 29, 2002
03-20	Mar 28, 2002	0520 Education	Proposed Rule	Amendment	<i>Chapter 0520-1-3 Minimum Requirements for the Approval of Public Schools</i> 0520-1-3-.07, Instructional Materials Center, Requirement F	Karen Weeks State Board of Education 9th Fl Andrew Johnson Twr 710 James Robertson Pw Nashville, TN 37243-1050 (615) 532-3528	July 29, 2002
03-21	Mar 28, 2002	0520 Education	Proposed Rule	Amendment	<i>Chapter 0520-2-4 Licensure</i> 0520-2-4-.05 The Praxis Series: Professional Assessments for Beginning Teachers	Karen Weeks State Board of Education 9th Fl Andrew Johnson Twr 710 James Robertson Pw Nashville, TN 37243-1050 (615) 532-3528	July 29, 2002

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

Applications will be heard at the May 22, 2002 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 March 1, 2002. 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

Regional Medical Center at Memphis
930 Madison Avenue, Suite C-1
Memphis (Shelby Co.), TN 38103
John Wellborn – (615)—665-2022
CN0202-016

The initiation of rehabilitation services, establishment of an inpatient rehabilitation unit, and the addition of eleven (11) acute care beds to be designated as rehabilitation. Nine (9) additional acute care beds will be redesignated as rehabilitation for a total of a twenty (20) bed rehabilitation unit. If this application is approved, the total hospital bed complement will increase by eleven (11) to six hundred thirty-one (631) beds.

\$ 2,380,000.00

Fentress Health Systems, LLC
Intersection of Mace Avenue and Crabtree Street
Jamestown (Fentress Co.), TN 38556
Jerry W. Taylor – (615)—726-1200
CN0112-092

The establishment of an outpatient diagnostic center (ODC) and an ambulatory surgical treatment center (ASTC), and the initiation of magnetic resonance imaging (MRI) services. Services to be provided include MRI, computed tomography (CT), ultrasound, nuclear medicine, and outpatient surgery. The facility will be located on unimproved 4.88 acres at the intersection of Mace Avenue and Crabtree Street in Jamestown, Tennessee.

\$ 3,572,720.00

NAME AND ADDRESS	DESCRIPTION
<p>American Drug Care, Inc. 3041 Getwell Road, Suite 101, Building A Memphis (Shelby Co.), TN 38118 John Hornberger – (901)—794-7248 CN0112-093</p>	<p>The establishment of an adult non-residential methadone program and counseling center and the initiation of a methadone treatment center. The facility will be located at 3041 Getwell Road, Suite 101, Building A in Memphis, Tennessee. \$ 97,500.00</p>
<p>Mid-Tennessee Bone and Joint Clinic, P.C. 1223 ½ Trotwood Avenue Columbia (Maury Co.), TN 38401 Jerry W. Taylor – (615)—726-1200 CN0201-011</p>	<p>The initiation of in-office resonance imaging (MRI) services and acquire a dedicated “extremities only” MRI unit at 1223 ½ Trotwood Avenue in Columbia, Tennessee. \$ 731,680.00</p>
<p>Imperial Manor Convalescent Center 306 Due West Avenue Madison (Davidson Co.), TN 37115 Peter Hayden – (615)—250-7100 CN0202-012</p>	<p>To add fifteen (15) dually certified skilled nursing facility (SNF) beds to be located at Imperial Manor Convalescent Center, 306 Due West Avenue in Madison. If approved, Imperial Manor Convalescent Center will have a total bed complement of one hundred sixty-five (165) beds. \$ 75,000.00</p>
<p>Southern Tennessee Medical Center 185 Hospital Road Winchester (Franklin Co.), TN 37398 John Wellborn – (615)—665-2022 CN0202-014</p>	<p>Southern Tennessee Medical Center consists of two facilities in Franklin County: a facility in Winchester at 185 Hospital Road currently licensed for one hundred twenty-six (126) hospital beds and thirty-three (33) skilled nursing facility (SNF) beds, and a facility in Sewanee at 1260 University Avenue currently licensed for nineteen (19) hospital beds and fifty-four (54) SNF beds. The Certificate of Need request includes the addition of seven (7) hospital beds, five (5) in the Winchester facility and two (2) in the Sewanee facility; reduction of eight (8) SNF beds, seven (7) at the Winchester facility and one (1) at the Sewanee facility; the initiation of inpatient rehabilitation services at the Winchester facility; and the construction and renovation for a new twelve (12) bed inpatient rehabilitation unit and forty-eight (48) replacement hospital beds. If approved, the bed complement at the Winchester facility will be one hundred thirty-one (131) hospital beds and twenty-six (26) SNF beds, the bed complement at the Sewanee facility will be twenty-one (21) hospital beds and twenty (20) SNF beds, resulting in a grand total of one hundred fifty-two (152) hospital beds and forty-six (46) SNF beds. \$ 9,108,617.00</p>

NAME AND ADDRESS	DESCRIPTION
Saint Francis Hospital 6005 Park Avenue Memphis (Shelby Co.), TN 38119 Jerry W. Taylor – (615)—726-1200 CN0202-015	The acquisition of a 1.5 Tesla magnetic resonance imaging (MRI) scanner and related equipment to be located in an existing medical office building on the campus of Saint Francis Hospital, 6005 Park Avenue, Memphis, Tennessee. \$ 1,509,717.00
Gateway Medical Center 1771 Madison Street Clarksville (Montgomery Co.), TN 37043 William H. West – (615)—259-1450 CN0202-017	The initiation of open-heart surgery services at Gateway Medical Center, 1771 Madison Street, Clarksville, Tennessee. \$ 2,013,640.00

**DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES - 0940
DIVISION OF MENTAL RETARDATION SERVICES**

ANNOUNCEMENT FOR COMMUNITY PROVIDER OPERATING GUIDELINES

AUTHORITY: T.C.A. 33-1-309

There will be a public meeting before the Division of Mental Retardation Services to consider the adoption of certain sections of the Operating Guidelines. The meeting will take place in the Andrew Johnson Tower First Floor Conference Room, 710 James Robertson Parkway, Nashville, TN 37243, on May 1, 2002, from 9:00 a.m. until 3:00 p.m.

Any individuals who wish to participate in these proceedings should contact the Division of Mental Retardation Services 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 to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with Carolyn Griffith, Special Projects Coordinator at the Division of Mental Retardation Services, Cordell Hull Building, 5th floor, 425 Fifth Avenue North, Nashville, TN 37247, (615) 253-2025, e-mail: Carolyn.Griffith@state.tn.us.

For a copy of the entire text of this notice of hearing, please contact: Carolyn Griffith or Lucia Beiler, Division of Mental Retardation Services, 425 Fifth Avenue North, Fifth Floor North, Cordell Hull Building, Nashville, TN 37247, (615) 253-2025 or 253-6096 or by e-mail at: Carolyn.Griffith@state.tn.us; Lucia.Beiler@state.tn.us.

SUBSTANCE OF PROPOSED GUIDELINES

Topics include Appeals, Independent Support Coordination, Transition, Protection From Harm, and Training in Prevention of Abuse.

This notice was filed in the Department of State on the 27th day of March, 2002. (03-13)

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 0940 - Department of Mental Health and Developmental Disabilities - Office of Licensure - Emergency Rule covering mental health and developmental disability two- and three-bed residential facilities accommodating individuals who cannot evacuate the residence without physical assistance - Chapter 0940 Life Safety Licensure Rules, 12 T.A.R. (December 2001) - Effective November 21, 2001 through May 5, 2002. (11-29)
- 1700 - Department of Treasury - TN Baccalaureate Education System Trust Board - Emergency Rules dealing with compliance with the Economic Growth and Tax Relief Reconciliation Act of 2001, chapter 1700-5-1 TN Baccalaureate Education System Trust, 2 T.A.R. (February 15, 2002) - Effective January 15, 2002 through June 29, 2002. (01-29)
- 1700 - Department of Treasury - TN Baccalaureate Education System Trust Board - Emergency Rules dealing with compliance with the Economic Growth and Tax Relief Reconciliation Act of 2001, Chapter 1700-5-2 TN Baccalaureate Education System Trust Educational Savings Plan, 2 T.A.R. (February 15, 2002) - Effective January 15, 2002 through June 29, 2002. (01-29)

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PROPOSED RULES

BOARD OF EDUCATION - 0520

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

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

The text of the proposed rule is as follows:

AMENDMENTS

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

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

(3) Class Size for Grades K-12.

- (a) Local boards of education shall have policies providing for class sizes in grades K-12 in accordance with the following:

Grade Level	Average Class Size	Maximum Class Size
K-3	20	25
4-6	25	30
7-12	30	35
Vocational Education	20	25

- (b) The average class size for a grade level unit (such as the unit K-3) shall not exceed the stated average, although individual classes within that grade level unit may exceed the average.
- (c) No class shall exceed the prescribed maximum size.

- (d) The average class size and the maximum class size shall be based on regular classroom teaching positions, exclusive of principal, assistant principal, counselor, elementary art, elementary music, elementary physical education, librarian, special education, or other specialized positions.
- (e) Class size limits may be exceeded in such areas as typewriting and instrumental and vocal music classes, provided that the effectiveness of the instructional program in these areas is not impaired.
- (f) Local school systems shall not establish split-grade classes for the purpose of complying with the provisions of the class size averages and maximums. However, these provisions do not prevent school systems from using multi-aged classes.
- (g) Local boards of education must approve the establishment of any split-grade classes for any purpose.
- (h) The average class size specified for the grade levels involved in split-grade classes will be the maximum size allowed in such classes.

Authority: T.C.A. §49-1-302.

(03-18)

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

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

- 3. Family and Consumer Sciences Education
 - (i) Family and Consumer Sciences
 - (I) Teen Living*
 - (II) Family and Consumer Sciences
 - (III) Adult Living
 - (IV) Family and Parenting Education
 - (V) Child Development
 - (VI) Nutrition and Foods
 - (VII) Nutrition Science**
 - (VIII) Textiles and Apparel

(IX) Housing and Interior Design

(X) Consumer Economics***

(XI) Interpersonal Communications

(XII) Career Connections

* Teen Living standards are applicable to grades 5 through 8

** Nutrition Science satisfies either one credit of life science (if team taught with a biology teacher) or one credit of physical science (if team taught with a chemistry teacher) required for graduation.

*** Consumer Economics satisfies one-half credit in economics required for graduation.

(ii) Occupational Education

(I) Foundations of the Hospitality Industry

(II) Culinary Arts I, II, and III

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

Part 6 of subparagraph (f) of paragraph (1) of Rule 0520-1-3-.06 Graduation, Requirement E is amended by deleting the part in its entirety and substituting instead the following language so that as amended the part shall read:

6. Technology Education

(i) Foundations of Technology*

(ii) Innovations and Inventions

(iii) Diversified Technology I and II

* Foundations of technology is applicable to grades 5 through 8.

Part 8 of subparagraph (f) of paragraph (1) of Rule 0520-1-3-.06 Graduation, Requirement E is amended by deleting the part in its entirety and substituting instead the following language so that as amended the part shall read:

8. Trade and Industrial Education

(i) Career Management Success

(ii) Transportation Service Technology

(I) Transportation Core

(II) Aviation Maintenance I and II

(III) Introduction to Aerospace

(IV) Theory of Flight

- (V) Automotive: Brake Systems
- (VI) Automotive: Electronics Systems
- (VII) Automotive: Suspension and Steering
- (VIII) Automotive: Engine Repair
- (IX) Collision Repair: Non Structural
- (X) Collision Repair: Structural
- (XI) Collision Repair: Painting and Refinishing
- (XII) Diesel: Brake Systems
- (XIII) Diesel: Preventive Maintenance
- (XIV) Diesel: Suspension and Steering
- (XV) Diesel: Electronics
- (XVI) Diesel: Engine
- (XVII) Leisure Craft: Systems
- (XVIII) Leisure Craft: Engine Performance

(iii) Construction Technology

- (I) Construction Core
- (II) Engineering Design/Computer-Aided Design (CAD)
- (III) Carpentry I and II
- (IV) Concrete I and II
- (V) Masonry I and II
- (VI) Electrical I and II
- (VII) Heating, Ventilation, Air Conditioning and Refrigeration (HVAC) I and II
- (VIII) Plumbing I and II
- (IX) Principles of Welding
- (X) Welding Applications

(iv) Arts and Communication Technology

- (I) Visual Art and Design
- (II) Graphic Communications
- (III) Graphic Communications Production
- (IV) Graphic Design and Digital Imaging
- (V) Media Concepts
- (VI) Electronic Media Production
- (VII) Electronic Media Management and Operations
- (VIII) Information Technology Infrastructure
- (IX) Computer Architecture
- (X) Networking Architecture
- (XI) Cabling Technology
- (XII) Web Page Design I and II
- (v) Manufacturing Technology
 - (I) Programming and Logic
 - (II) Principles of Manufacturing
 - (III) Principles of Machining and Manufacturing
 - (IV) Manufacturing Applications
 - (V) Digital Electronics
 - (VI) Engineering Design/Computer Aided Design (CAD)
 - (VII) Principles of Engineering
 - (VIII) Principles of Welding
 - (IX) Welding Applications
- (vi) Human Services
 - (I) Principles of Cosmetology
 - (II) Design Principles of Cosmetology
 - (III) Chemistry of Cosmetology

- (IV) Legal and Protective Service Careers I, II, and III
 - (vii) Hospitality and Tourism
 - (I) Foundations of the Hospitality Industry
 - (II) Culinary Arts I, II, and III
 - (viii) Cooperative Education
 - (I) Industrial Cooperative Education I and II*
- * Industrial Cooperative Education I and II will be discontinued from course offerings effective 2003-2004

Authority: T.C.A. §49-1-302.
(03-19)

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

Rule 0520-1-3-.07, Instructional Materials Center, Requirement F, is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

0520-1-3-.07 LIBRARY INFORMATION CENTER, REQUIREMENT F.

- (1) School library information center.
 - (a) All school library information centers shall serve as resources for students, teachers and community members to strengthen student learning. School library information specialists shall work closely with classroom teachers to integrate both curricular concepts and information skills that assist research and other learning activities. The collection and the services of the library information center shall adequately support the curricular priorities within the school.
 - (b) School library information centers shall create an environment that allows efficient access to both print and electronic resources. Schools must be organized to allow the library program to operate a flexible schedule that allows students and teachers to access resources at the point of need.
 - (c) School library information centers shall provide access to parents and community members, so that the school library information center serves as a community resource.
- (2) Library Information Center Personnel
 - (a) Schools including grades K-8 or any combination thereof shall provide library information personnel as follows:
 - 1. A school having a current average daily membership of 550 or more students shall have a full-time library information specialist with endorsement as a library information specialist.

2. A school with a current average daily membership of 400 to 549 students shall have a half-time library information specialist with endorsement as a library information specialist. During the time that the library is open during regular school hours and the library information specialist is not present, the principal shall designate staff member(s) to provide supervision to the students in the library.
 3. In a school with fewer than 400 students, the principal or staff member designated by the principal, shall serve as a library information coordinator. If the library information coordinator is not present during the time that the library is open during regular school hours, the principal shall designate staff member(s) to provide supervision to students in the library.
 4. When a library is open outside the regularly scheduled school day and the library information specialist is not present, the principal shall designate staff member(s) to provide supervision to students in the library. School boards may develop policies regarding the appropriate use and training of volunteers.
- (b) Schools including any high school grade shall provide library information personnel as follows:
1. A school with a current average daily membership of more than 300 but less than 1,500 students shall have a full-time library information specialist with endorsement as a library information specialist.
 2. A school with a current average daily membership of fewer than 300 students shall have a half-time library information specialist. During the time that the library is open during regular school hours and the library information specialist is not present, the principal shall designate staff member(s) to provide supervision to students in the library.
 3. A school with a current average daily membership of 1500 or more students shall have two full-time library information specialists, each with endorsement as a library information specialist.
 4. When the library is open outside the regularly scheduled school day and the library information specialist is not present, the principal shall designate staff member(s) to provide supervision to the students in the library. School boards may develop policies regarding the appropriate use and training of volunteers.
- (3) Library information center collection.
- (a) **Print Collection.** The collection shall average at least 12 items per student in average daily membership. Pamphlets, textbooks, unbound periodicals, out-of-date items, and items in poor physical condition shall neither be counted nor reported in the total collection. The collection shall include at least one set of encyclopedia copyrighted within the last 5 years. In secondary schools, the collection shall also include an unabridged dictionary, a local newspaper, and one daily newspaper presenting news on both state and national levels.
 - (b) **Software Based Collection.** Individual CD-ROM discs may be counted as the number of eligible hardbound units they replace. For example, one CD-ROM disc that contains the equivalent of a twenty-volume set of encyclopedias or other reference books may be counted as 20 units. A disc containing the complete works of Shakespeare equivalent to three hardbound volumes may count as three units. Such collections may count no more than 20% of the total collection.
 - (c) **Internet-Based Collection.** Internet-based collections and subscriptions may be counted provided the following criteria are met:

1. Internet-based connections in the library information center are sufficient to provide access to students at a ratio of a minimum of 100:1.
2. Internet-based materials count no more than 20% of the collection or subscription requirement. Only full text may count toward the collection total.
3. Internet-based materials may count up to 30% in schools in which the library media specialist has received the Tennessee Electronic Library training.

Authority: T.C.A. §49-1-302.
(03-20)

CHAPTER 0520-2-4 LICENSURE

AMENDMENT

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

Tennessee Educator Licensure Examinations

Test Code	Endorsement Area	Test Title	Minimum Qualifying Score	Effective Date Sept. 1
0522	All Areas (See Note)	Principles of Learning and Teaching, K-6 or	155	1998
0523		Principles of Learning and Teaching, 5-9 or	154	1999
0524		Principles of Learning and Teaching, 7-12	159	1998
1010	Administrator	School Leader Licensure Assessment	156	2001
0700	Agricultural Education	Agriculture	530	1998
0133	Art	Art: Content Knowledge	150	1998
0132	Art	Choice of Art: Content, Traditions, Criticism & Aesthetics or	140	2001
0131	Art	Art: Art Making	155	2001
0235	Biology	Biology: Content Knowledge	148	2002
0233	Biology	Choice of Biology Content Essays or	146	1999
0433	Biology	General Science Content Essays	130	1999
0100	Business/Accounting	Business Education	570	1996
0245	Chemistry	Chemistry: Content Knowledge	152	2002
0431	Chemistry	General Science: Content Knowledge, Part 1	138	1995
0020	Early Childhood Education	Early Childhood Education	570	1996
0014		Elementary School: Content Knowledge	NM	2001
0571	Earth Science	Earth Science: Content Knowledge	146	2002
0431	Earth Science	General Science: Content Knowledge, Part 1	138	1998
0910	Economics	Economics	530	2002
0011	Elementary Education K-8, 1-80014 0146	Elementary Education: Curriculum, Instruction, and Assessment	159	1998

Tennessee Educator Licensure Examinations

Test Code	Endorsement Area	Test Title	Minimum Qualifying Score	Effective Date Sept. 1
0014	Elementary Education K-8, 1-8	Elementary School: Content Knowledge or	NM	2001
0146		Middle School: Content Knowledge	150	2001
0041	English	Language, Literature, Composition: Content Knowledge	157	1995
0043	English	Language, Literature, Comp.: Pedagogy	145	1999
0360	English as a Second Language	Teaching English as a Second Language	530	1999
0120	Family & Consumer Science	Family and Consumer Science	580	1996
0920	Geography	Geography	520	1996
0930	Government	Government/Political Science	560	1996
0550	Health	Health Education	570	1997
0940	History	World and U.S. History	490	2002
	Languages:			
0173	French	French: Content Knowledge	160	1998
0171	French	French: Productive Language Skills	165	2001
0181	German	German: Content Knowledge	139	1998
0600	Latin	Latin	540	1996
0191	Spanish	Spanish: Content Knowledge	152	1995
0192	Spanish	Spanish: Productive Language Skills	154	1999
0310	Librarian	Library Media Specialist	600	2000
0560	Marketing	Marketing Education	640	1999
0061	Mathematics	Mathematics: Content Knowledge	136	1995
0065	Mathematics	Mathematics: Pedagogy	125	1999
0146	Middle Grades 5-8	Middle School: Content Knowledge	150	2000
0113	Music	Music: Content Knowledge	150	1998
0111	Music	Music: Concepts and Processes	145	2001
0091	Physical Education	Physical Education: Content Knowledge	152	1995
0092	Physical Education	Physical Education: Movement Forms - Analysis & Design	148	1999
0265	Physics	Physics: Content Knowledge	144	2002
0262	Physics	Choice of Physics: Content Essays or	135	1999
0433	Physics	General Science Content Essays	130	1999
0390	Psychology	Psychology	560	1997
0420	School Counselor	School Guidance and Counseling	580	1996
0400	School Psychologist	School Psychologist	590	1998
0950	Sociology	Sociology	540	1996
	Special Education:			
0351	All Special Education Areas (See Note)	Special Education: Knowledge-Based Core Principles	145	1999
0352		Special Education: Applications of Core Principles	140	1999
0271	Hearing	Special Education: Education of Deaf and Hard of Hearing Students	163	2001
0690	Preschool/Early Childhood	Special Education: Preschool/Early Childhood	560	1997
0330	Speech/Language	Speech-Language Pathology	600	2000
0280	Vision	Special Education: Teaching Students with Visual Impairments	700	2001

Tennessee Educator Licensure Examinations

Test Code	Endorsement Area	Test Title	Minimum Qualifying Score	Effective Date Sept. 1
0220	Speech	Speech Communications	570	1998
0050	Technology Education	Technology Education	580	1996
0640	Theatre	Theatre	610	1997

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

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

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

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

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

Authority: T.C.A. §§49-1-302 and 49-5-5605.
(03-21)

The proposed rules set out herein were properly filed in the Department of State on the 28th day of March, 2002, 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 29th day of July, 2002. (03-18 through 03-21)

DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620

CHAPTER 0620-3-8

CONTRACT MANAGEMENT AND SUBRECIPIENT MONITORING

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

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

The text of the proposed rules is as follows:

NEW RULES

TABLE OF CONTENTS

0620-3-8-.01	Scope	0620-3-8-.04	Contract Management
0620-3-8-.02	Applicability	0620-3-8-.05	Subrecipient Monitoring
0620-3-8-.03	Contract Management and Subrecipient Monitoring-Distinguished	0620-3-8-.06	Exceptions to Rules

0620-3-8-.01 SCOPE. These rules are promulgated pursuant to Tennessee Code Annotated, §12-4-109(d) which directs: (1) that each state department or agency shall be responsible for the effective management of all service contracts that it procures and enters; and (2) the Commissioner of Finance and Administration to develop regulations that define service contracting fundamentals.

These rules shall not, in any way, be construed to relieve a procuring state department or agency of the responsibility for the effective management of all its service contracts.

These rules shall not be construed to address the procurement of services by the state. Department of Finance and Administration Rules, Chapter 0620-3-3, Personal Service, Professional Service, and Consultant Service Contracts, govern the procurement of services by executive branch departments and agencies of the state of Tennessee.

Authority: T.C.A. §§4-5-202, and 12-4-109.

0620-3-8-.02 APPLICABILITY.

- (1) These rules shall apply to all departments, institutions, boards, commissions, and agencies of the state of Tennessee executive branch.
- (2) The legislative and judicial branches of state government and the University of Tennessee and State Board of Regents college and university systems shall have the option of:

- (a) following these rules, the policy and procedures specified herein; or
 - (b) developing their own service contracting procedures, provided that such are in compliance with the policy expressed in these rules.
- (3) These rules shall not apply to:
- (a) contracts of the Department of Transportation for construction and engineering, which are made in accordance with the provisions of Tennessee Code Annotated, §54-5-101, et seq.
 - (b) contracts of the State Building Commission made in accordance with the provisions of Tennessee Code Annotated, §4-15-102.
 - (c) contracts for procurement of services in connection with the issue, sale, purchase, and delivery of bonds, notes and other debt obligations or the administration, safekeeping, and payment after delivery of such debt obligations by the state or any of its agencies.
 - (d) contracts to hire additional counsel for the state of Tennessee or any of its departments, institutions or agencies made in accordance with the provisions of Tennessee Code Annotated, §8-6-106.
 - (e) instances where the state procures the services of an expert witness for any judicial or administrative proceeding.
- (4) Any part of these rules which may conflict with applicable federal regulations or provisions governing the use of federal grant funds may be waived by the Commissioner of Finance and Administration.
- (5) Any part of these rules which may conflict with applicable law shall be null and void.

Authority: *T.C.A. §§4-5-202, and 12-4-109.*

0620-3-8-.03 CONTRACT MANAGEMENT AND SUBRECIPIENT MONITORING—DISTINGUISHED.

- (1) A service contract creates either a vendor relationship or a subrecipient relationship with the contractor. The nature of the business relationship with the contractor (i.e., vendor or subrecipient), and not the type of contract (i.e., fee-for-service contract or a grant), controls whether a contractor is a vendor or a subrecipient. Direction for determining whether a contractual relationship is a vendor or subrecipient relationship is found in both Department of Finance and Administration Policy 22 and the federal Office of Management and Budget Circular A-133.
- (2) A procuring state agency is responsible for contract management of all vendor and subrecipient contracts under its purview. Additionally, contracts characterized by a subrecipient relationship are subject to subrecipient monitoring.

Authority: *T.C.A. §§4-5-202, and 12-4-109.*

0620-3-8-.04 CONTRACT MANAGEMENT.

- (1) Each state department or agency shall be responsible for the effective management of all contracts under its purview. Contract Management is a state department or agency's on-going continuum of processes for administering and reviewing the performance of each service contract for efficiency, cost-effectiveness, and service provider accountability and results. Contract Management may include, but is not limited to:

- (a) allocating adequate staff and resources to contract management;
 - (b) reviewing contractor performance in terms of progress and compliance with contract provisions;
 - (c) communicating with contractors to ensure maximum performance and intended results;
 - (d) approving and remitting payments in accordance with contract provisions and applicable law for acceptable work;
 - (e) maintaining records of each contract that document activities such as procurement, management, and subrecipient monitoring, if applicable; and
 - (f) evaluating contract results in terms of the achievement of organizational objectives.
- (2) Annual Contract Management Plan. Each state agency shall establish an Annual Contract Management Plan addressing the general management of service contracts for which it is responsible.
- (a) Content. A contract management plan should include:
 - 1. information about the specific staff positions and resources that will be assigned to contract management;
 - 2. a description of the organization of identified staff and resources for the contract management responsibility; and
 - 3. an explanation of how the contract management staff will review and supervise contractor performance, progress, and contract compliance.
 - (b) Approval. Before each calendar year for which the plan is applicable, the commissioner or chief executive of the subject state agency must approve the Annual Contract Management Plan and, before submitting any service contract for approval in that year, submit a copy to the Department of Finance and Administration, Office of Contracts Review.
- (3) Responsible Staff. Each state agency should identify the specific staff responsible for the management of each service contract under its purview and ensure that such staff have adequate training. Such training may include:
- (a) definition of service needs;
 - (b) service procurement law, rules, and regulations;
 - (c) basic record keeping;
 - (d) program specific goals, objectives, purpose, and responsibilities;
 - (e) interpersonal communication;
 - (f) project management skills and tools; and
 - (g) evaluation techniques, skills, and tools.
- (4) Contract Management Processes. Each state agency shall implement such management practices as necessary to ensure:

- (a) accountability, results, and positive programmatic impact from service contracts (as opposed to mere contract compliance).
 - (b) the use of diverse talents of the agency's "centralized" units (e.g., contract administration, audit, fiscal), where possible, as "support" staff to assist or oversee program staff in contract management responsibilities.
- (5) Contract Management Evaluation. The efficacy of each state agency's contract management shall be subject to ongoing evaluation and improvement, and the responsibility for which shall belong to:
- (a) the procuring state agency's program area(s) having responsibility for each service contracted;
 - (b) the procuring state agency's functional area(s) having responsibility for internal controls, financial integrity, and internal audit;
 - (c) the procuring state agency's executives; and
 - (d) the Comptroller of the Treasury (pursuant to his power to review and audit State government entities under Title 8, Chapter 4 and Title 9, Chapter 18 of Tennessee Code Annotated).

Authority: *T.C.A. §§4-5-202, and 12-4-109.*

0620-3-8-.05 SUBRECIPIENT MONITORING.

- (1) Subrecipient Monitoring is required, in addition to contract management, for the specific subset of service contracts and grants that are characterized by a subrecipient relationship. Subrecipient contract monitoring is an additional, independent review that is used to determine a subrecipient contractor's compliance with the requirements of applicable state and/or federal programs, laws and regulations, and stated results as well as the review of internal controls to determine if the financial management and the accounting system are adequate to account for program funds in accordance with state and/or federal requirements. Policies governing state government subrecipient contract monitoring are found in Department of Finance and Administration Policy 22, signed by the Commissioner of Finance and Administration and the Comptroller of the Treasury.
- (2) Independence Required. Staff with subrecipient monitoring responsibilities must have a separation of duties from program staff to ensure independence and objectivity.
- (3) Plan Required. Each state agency subject to these rules shall develop and obtain Department of Finance and Administration approval of an annual subrecipient monitoring plan that identifies all of its subrecipients and all subrecipients to be monitored and describes the risk criteria used to prioritize subrecipients for monitoring purposes (a risk-based approach for the selection of subrecipients to be monitored, unless specifically prohibited by state and/or federal program guidelines). The deadline for this plan is detailed in Department of Finance and Administration Policy 22.
- (4) Annual Report Required. Each state agency subject to these rules shall submit an annual report of its prior year, subrecipient-monitoring activities to the Department of Finance and Administration. The deadline for this report is detailed in Department of Finance and Administration Policy 22.
- (5) Department of Finance and Administration Oversight and Support. There shall be created an office of Program Accountability Review which shall serve as the main point of contact and authority, subject to the approval of the Commissioner of Finance and Administration, regarding all matters related to subrecipient monitoring, whether

conducted independently or by procuring agency staff. This office shall execute the rules of this chapter regarding subrecipient monitoring.

Authority: T.C.A. §§4-5-202, and 12-4-109.

0620-3-8-.06 EXCEPTIONS TO RULES. The Commissioner of Finance and Administration shall have the authority to make exceptions to the rules of this chapter. The Department of Finance and Administration shall file approved exceptions to these rules and the reasons therefore with the Comptroller of the Treasury.

Authority: T.C.A. §§4-5-202, and 12-4-109.

The proposed rules set out herein were properly filed in the Department of State on the 4th day of March, and pursuant to the instructions set out above, and in the absence of the filing of a petition for a rulemaking hearing, will become effective on the 29th day of July, 2002. (03-02)

**THE TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT - 0800
DIVISION OF WORKERS' COMPENSATION
UNINSURED EMPLOYERS FUND**

**CHAPTER 0800-2-15
UNINSURED EMPLOYERS FUND**

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

For a copy of the proposed rules, contact: Shara Hamlett, TN Dept. of Labor and Workforce Dev., Division of Workers' Compensation, Uninsured Employers Fund, Andrew Johnson Tower, Second Floor, 710 James Robertson Parkway, Nashville, TN, Telephone: (615) 253-6261.

The text of the proposed rules is as follows:

NEW RULES

TABLE OF CONTENTS

0800-2-15-.01 Definitions	0800-2-15-.10 Representation at Show Cause Hearing
0800-2-15-.02 Investigation of Non-Compliance	0800-2-15-.11 Pre-Hearing Matters
0800-2-15-.03 Departmental Actions	0800-2-15-.12 Order of Proceedings of Show Cause Hearings
0800-2-15-.04 Monetary Penalties	0800-2-15-.13 Scope of Examination and Rules of Evidence
0800-2-15-.05 Notice of Hearing	0800-2-15-.14 Burden of Proof
0800-2-15-.06 Discovery	0800-2-15-.15 Determinations pursuant to Show Cause Hearing
0800-2-15-.07 Issuance of Subpoenas	0800-2-15-.16 Collection of Penalties
0800-2-15-.08 Continuances	0800-2-15-.17 Injunctions
0800-2-15-.09 Effect of Employer's Failure to Appear	0800-2-15-.18 Appeal

0800-2-15-.01 DEFINITIONS. The following definitions are for the purposes of this chapter only:

- (1) "Administrator" means the Administrator of the Workers' Compensation Division of the Tennessee Department of Labor and Workforce Development.
- (2) "Commissioner" means the Commissioner of the Tennessee Department of Labor and Workforce Development or the Commissioner's designee.
- (3) "Department" means the Tennessee Department of Labor and Workforce Development.
- (4) "Designee" means any person whom the Commissioner indicates, selects, appoints, nominates, or sets apart for a purpose or duty.
- (5) "Employer" shall have the same meaning as set forth in TCA Section 50-6-102 and additionally shall include an individual, firm, business, corporation, partnership, limited liability company, association, or any other entity which an employee of the Department reasonably believes may be an Employer as defined in TCA Section 50-6-102.
- (6) "Fund" means the Uninsured Employers Fund.
- (7) "Inspection" means any inspection of an Employer's factory, plant, establishment, construction site or other area, workplace, or environment where work is performed by at least one person who is or may be an employee of an employer.
- (8) "Investigation" means reasonable efforts made by a Department employee to find out relevant information or information reasonably calculated to lead to the discovery of relevant information necessary to determine whether an employer is subject to the Workers' Compensation Law, to determine whether an employer has secured payment of compensation pursuant to the Workers' Compensation Law, or to determine the amount of any monetary penalty which may be assessed against an employer for failure to secure payment of compensation pursuant to the Workers' Compensation Law. The reasonable efforts used may include the use of a computer, sending and receiving electronic mail, making and reviewing records, both computer-generated and on paper, including reviewing other records of the Department, from other governmental entities and agencies, or from any other lawful source, making and receiving telephone calls, sending and receiving facsimile transmissions, writing and receiving correspondence, completing written reports, filling out and receiving forms, serving subpoenas and reviewing items identified by subpoenas, and making inspections, re-inspections, or follow-up inspections.

- (9) “Investigator” or “Workers’ Compensation Investigator” means a person authorized by the Commissioner to conduct investigations.
- (10) “Records of the Department” or “Department Records” means any data, including electronic, computer-generated, telephonic, or on paper, used in the business of the Department and obtained by any employee of the Department:
 - (a) from within the Department;
 - (b) from other governmental entities or agencies;
 - (c) through an investigation; or
 - (d) from any other lawful source.
- (11) “Worker” means an employee or injured worker.
- (12) “Workers’ Compensation Law” means the Workers’ Compensation Act as currently enacted by the Tennessee General Assembly.

0800-2-15-.02 INVESTIGATION OF NON-COMPLIANCE

- (1) Investigators may conduct an investigation or inquire into instances where an employer:
 - (a) reasonably appears to be subject to the Workers’ Compensation Law; and
 - (b) has or may have failed to secure payment of compensation as required by the Workers’ Compensation Law
- (2) When the records of the Department reasonably indicate, or when the Department’s investigation of an Employer reasonably indicates, that an employer is subject to the Workers’ Compensation Law and has failed to secure payment of compensation as required by the Workers’ Compensation Law, the Department shall notify the employer by certified letter, return receipt requested.
- (3) The certified letter shall:
 - (a) advise the employer of the monetary penalties which may be assessed against the employer if it is determined by the Commissioner or Commissioner’s designee that the employer has failed to secure payment of compensation as required by the Workers’ Compensation Law; and
 - (b) advise the employer of the criminal penalties to which the employer may be subject for failure to secure payment of compensation as required by the Workers’ Compensation Law.
- (4) The employer shall have ten (10) days, excluding Saturdays, Sundays and holidays, from the receipt of the certified letter to respond to and to provide to the Department:
 - (a) documented proof that the employer has secured, prior to the receipt of the certified letter, payment of compensation as required by the Workers’ Compensation Law; or
 - (b) a verifiable sworn affidavit, with supporting documentation, that the employer is exempt from the Workers’ Compensation Law.

- (5) Investigators may conduct an investigation to verify the accuracy of the statements made or the facts set forth:
 - (a) in an affidavit provided by an employer;
 - (b) in documentation supporting an affidavit provided by an employer; or
 - (c) in any other method of proof provided by an employer.

0800-2-15-.03 DEPARTMENTAL ACTIONS

- (1) The Commissioner or Commissioner's designee shall:
 - (a) issue no monetary penalty if the Commissioner or Commissioner's designee determines either:
 - 1. that the employer had at all relevant times secured payment of compensation as required by the Workers' Compensation Law before receiving the certified letter; or
 - 2. that the employer is exempt from the Workers' Compensation Law and has been exempt from the Workers' Compensation Law at all relevant times;
 - (b) issue a monetary penalty to the employer equal to one and one-half times the average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), if the Commissioner or Commissioner's designee determines:
 - 1. that the employer is subject to the Workers' Compensation Law;
 - 2. that the employer has failed for any relevant period of time to secure payment of compensation as required by the Workers' Compensation Law; and
 - 3. that the employer has secured payment of compensation since the date of receipt of the certified letter described in Rule 0800-2-15-.02; or
 - (c) issue a "Show Cause Order and Notice of Hearing" if either:
 - 1. the employer does not timely respond to the certified letter; or
 - 2. investigators or employees of the Department cannot verify the accuracy of the statements made or the facts set forth in the sworn affidavit provided by the employer, in documentation supporting an affidavit provided by an employer, or in any other method of proof provided by an employer.
- (2) If the Commissioner or Commissioner's designee issues a "Show Cause Order and Notice of Hearing", the Commissioner or Commissioner's designee shall:
 - (a) assess against the employer a first monetary penalty equal to one and one half times the employer's average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3); and
 - (b) assess against the employer a second monetary penalty equal to the employer's average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3).

0800-2-15-.04 MONETARY PENALTIES

- (1) All monetary penalties assessed against an employer by the Commissioner or Commissioner's designee which are based on the average yearly workers' compensation premium shall be calculated by utilizing the appropriate assigned risk plan advisory prospective loss cost and multiplier for an employer in the business in which the employer is employed as of the date as determined by the Commissioner or Commissioner's designee when the employer is or has been subject to the Workers' Compensation Law and has failed to secure payment of compensation for any period of time required by the Workers' Compensation Law.
- (2) If the Commissioner or Commissioner's designee determines the period of noncompliance with the Workers' Compensation Law is less than one (1) year, any assessed monetary penalty shall be prorated.
- (3) Any prorated monetary penalty assessed against an employer by the Commissioner or Commissioner's designee shall not be less than an amount equal to one (1) month's premium of the average yearly workers' compensation premium for such an employer based on the appropriate assigned risk plan advisory prospective loss cost and multiplier.
- (4) If any monetary penalty assessed against an employer is held in abeyance, the period of abeyance shall be two (2) years.
 - (a) Any abated penalty becomes void upon the expiration of the two (2) year period, provided the employer remained subject to the Workers' Compensation Law during the two (2) year period and continuously secured payment of compensation as required by law.
 - (b) Any abated penalty becomes voidable, if within the two (2) year period, the employer provides notice to the Commissioner that the employer is no longer subject to the Workers' Compensation Law. Upon concurrence of the Commissioner or the Commissioner's designee that the employer is no longer subject to the Workers' Compensation Law, the abated penalty shall become void.
 - (c) Any abated penalty shall become due and payable immediately if, within the two (2) year period, the employer:
 1. continues to be subject to the Workers' Compensation Law; and
 2. fails to secure payment of compensation for any period of time as required by the Workers' Compensation Law.

0800-2-15-.05 NOTICE OF HEARING

- (1) The "Show Cause Order and Notice of Hearing" shall specify:
 - (a) the time, place, and nature of the hearing;
 - (b) the right of the parties to be represented by counsel;
 - (c) the legal authority and jurisdiction under which the hearing is to be held;
 - (d) all monetary penalties which have been assessed against the employer;
 - (e) the criminal penalties to which the employer may be subject; and

- (f) a short and plain statement of the matters asserted
- (2) The “Show Cause Order and Notice of Hearing” shall be sent to the employer by certified mail, return receipt requested, to the employer’s last known address, according to department records.
- (3) The Department shall schedule the show cause hearing in a timely manner, not to exceed sixty (60) days from the date of the employer’s receipt of the first certified letter pursuant to Rule 0800-2-15-.02(2).

0800-2-15-.06 DISCOVERY

- (1) Prior to the scheduled date and time of the show cause hearing before the Commissioner or the Commissioner’s designee, interested parties of record to such hearing, or their attorneys, may make written application for, and shall then be supplied with, information from the records of the Department of Labor and Workforce Development which is not privileged and which is directly related to the issues therein contested at such hearing, subject to the provisions of the Workers’ Compensation Law and the laws of the State of Tennessee.

0800-2-15-.07 ISSUANCE OF SUBPOENAS

- (1) The Commissioner or Commissioner’s designee may, where necessary, issue subpoenas to compel the production of books, records, papers, documents or other tangible things which may be relevant to or reasonably calculated to lead to the discovery of relevant information necessary to determine:
 - (a) whether an employer is subject to the Workers’ Compensation Law;
 - (b) whether an employer has secured payment of compensation pursuant to the Workers’ Compensation Law; or
 - (c) the amount of any monetary penalty which is required to be assessed against an employer for failure to secure payment of compensation pursuant to the Workers’ Compensation Law.
- (2) Such subpoenas may be served in person or by certified mail, return receipt requested, or in any manner prescribed by law for the service of subpoenas in a civil action.
- (3) In case of non-compliance with any subpoena issued and served under this section, the Commissioner or Commissioner’s designee may apply to the Chancery Court of Davidson County, Tennessee, for an order to compel compliance with the subpoena and to request any appropriate sanctions deemed reasonable by the Court.

0800-2-15-.08 CONTINUANCES

- (1) Continuances of show cause hearings shall be strongly discouraged by the Commissioner or Commissioner’s designee.
- (2) All requests for continuances shall be made in writing as soon as reasonably and practicably possible prior to the scheduled date of the show cause hearing. Such requests may be granted at the discretion of the Commissioner or Commissioner’s designee. In addition, the Commissioner or Commissioner’s designee may grant a continuance during the course of a hearing in order to secure all of the evidence which the Commissioner or Commissioner’s designee deems necessary for a fair hearing to all parties of interest or at any time for other good cause shown.

0800-2-15-.09 EFFECT OF EMPLOYER'S FAILURE TO APPEAR AT HEARING

- (1) Failure of an employer to appear at a scheduled show cause hearing before the Commissioner or Commissioner's designee after due notice thereof may result in a decision being automatically rendered against such employer.
- (2) If a party fails or refuses to appear at the time a hearing is scheduled after due notice thereof, or within fifteen (15) minutes thereafter, the Commissioner or Commissioner's designee shall proceed with the show cause hearing.
- (3) In such cases as described in subparagraph (2), the Commissioner or Commissioner's designee shall render a decision on the basis of whatever evidence is properly before the Commissioner or Commissioner's designee.

0800-2-15-.10 REPRESENTATION AT SHOW CAUSE HEARING

- (1) Representation at a show cause hearing shall be in accordance with the following:
 - (a) Any individual receiving due notice to appear at a show cause hearing may appear at the hearing in his or her own behalf or may be represented at the hearing by an attorney at law duly licensed and admitted to practice by the highest court of the State of Tennessee.
 - (b) Any partnership receiving due notice to appear at a show cause hearing may appear at the hearing by any of its partners or employees or may be represented at the hearing by an attorney at law duly licensed and admitted to practice by the highest court of the State of Tennessee.
 - (c) Any corporation receiving due notice to appear at a show cause hearing shall appear at the hearing by an attorney at law duly licensed and admitted to practice by the highest court of the State of Tennessee.
- (2) The Commissioner or Commissioner's designee, in his/her discretion, may refuse to allow any attorney or any other person to continue in the representation or assistance of another in any proceeding before the Commissioner or Commissioner's designee if the Commissioner or Commissioner's designee finds said attorney or other person guilty of disorderly, disruptive, or unethical conduct during the course of a show cause hearing.
 - (a) Any attorney seeking to appear for or to represent a party to any proceeding before the Commissioner or Commissioner's designee or any other person seeking to assist in the appearance of a party to such a proceeding shall cause to be filed, not later than the date of the hearing, a written notice of appearance. Such written notice of appearance should specify sufficient information necessary to identify the particular proceeding involved and which must include, at least:
 1. the name and address of the employer; and
 2. the name and address of the attorney or other person filing the notice of appearance.
- (3) All notices of appearance shall be delivered to the Commissioner or Commissioner's designee or mailed to:

Tennessee Department of Labor and Workforce Development
Division of Workers' Compensation
Uninsured Employers Fund
Andrew Johnson Tower, Second Floor
710 James Robertson Parkway
Nashville, TN 37243-0661

- (4) Any notice of appearance received by the Commissioner or Commissioner's designee shall be deemed as having been filed for the purpose of any further proceeding in the same matter before the Commissioner or Commissioner's designee.
 - (a) After the expiration of three (3) days from the date of receipt of a notice of appearance, any notice of hearing or decision subsequently mailed to a party by the Commissioner or Commissioner's designee shall also be mailed to the attorney or other person who has on file a properly executed notice of appearance.
- (5) Any requests for copies of other documents in any pending matter before the Commissioner or Commissioner's designee shall be subject to a reasonable copy fee.

0800-2-15-.11 PRE-HEARING MATTERS

- (1) The names and addresses of all witnesses who may be called at a show cause hearing and a list of all proposed exhibits shall be both filed with the Commissioner or Commissioner's designee and served on opposing counsel at least seven (7) days, excluding Saturdays, Sundays, and holidays, prior to the date of the show cause hearing.
- (2) Copies of affidavits which may be used at a show cause hearing shall be furnished to opposing party or its counsel at least ten (10) days, excluding Saturdays, Sundays, and holidays, prior to the date of the show cause hearing.
- (3) Copies of all exhibits which are proposed to be offered shall be made available for viewing by opposing party or its counsel upon request made no less than five (5) days, excluding Saturdays, Sundays, and holidays, prior to the date of the show cause hearing.
- (4) Either the employer/employer's attorney or the fund/fund's attorney may request a pre-hearing conference by telephone or in person with the Commissioner or Commissioner's designee. A request for a pre-hearing conference shall be made at least fifteen (15) days, excluding Saturdays, Sundays, and holidays, prior to the date of the show cause hearing. The Commissioner or Commissioner's designee may, in his/her discretion, grant or decline to grant a request for a pre-hearing conference, limit or expand the matters to be discussed at a pre-hearing conference, or otherwise discuss how to facilitate the orderly process of the show cause hearing. The party requesting the conference shall be responsible for arranging the conference and coordinating the conference with opposing party or its counsel. All discussions with the Commissioner or Commissioner's designee at the pre-hearing conference shall include both the employer/employer's attorney and the fund/fund's attorney. The Commissioner or Commissioner's designee may, on his/her own initiative, schedule a pre-hearing conference by telephone or in person with the employer/employer's attorney and the fund/fund's attorney.

0800-2-15-.12 ORDER OF PROCEEDINGS OF SHOW CAUSE HEARINGS

- (1) In show cause hearings before the Commissioner or Commissioner's designee, the order of proceedings is as follows:
 - (a) The Commissioner or Commissioner's designee may confer with the parties prior to a show cause hearing to explain the order of proceedings, admissibility of evidence, number and order of witnesses and other preliminary matters.
 - (b) The Commissioner or Commissioner's designee calls the show cause hearing to order and turns on the mechanical recording device. Instead of using a mechanical recording device, the parties may employ the services of a court reporter to transcribe the proceedings.

- (2) The Commissioner or Commissioner's designee introduces self and gives a very brief statement of the nature of the proceedings. This statement includes a statement that the hearing will be fair and impartial and that the Commissioner or Commissioner's designee will be the sole determiner of the facts.
- (3) The Commissioner or Commissioner's designee then calls, respectively, on the staff attorney representing the fund and on the employer or the employer's attorney. If the employer is represented by counsel, the counsel is introduced and the counsel's presence noted for the record. Witnesses for the fund and for the employer are introduced and their presence noted at this time.
- (4) The Commissioner or Commissioner's designee identifies the issues as set out in the notice of hearing and gives references to the sections of the Workers' Compensation Law involved.
- (5) If either the staff attorney representing the fund or the employer notes exceptions to the issues as outlined by the Commissioner or Commissioner's designee, appropriate time is allowed for discussion, and necessary changes may be made to the satisfaction of the parties.
- (6) The Commissioner or Commissioner's designee swears all parties and witnesses that are to be called upon to testify at the hearing; however, a solemn affirmation may be accepted in lieu of oath.
- (7) Upon request by either the fund or the employer, all witnesses who are not to testify immediately are excluded from the hearing room so that no witness may hear the other testimony. Sequestration shall be effective before opening statements if requested. No person shall disclose by any means to excluded witnesses any live hearing testimony or exhibits created in the hearing room by a witness. This rule does not authorize exclusion of the following:
 - (a) a party who is a natural person;
 - (b) an officer or employee of a party which is not a natural person designated as its representative by its attorney; or
 - (c) a person whose presence is shown by a party to be essential to the presentation of the party's cause.
- (8) Any preliminary motions or stipulations are entertained. By agreement, the parties to the show cause hearing may stipulate the facts involved in writing. The Commissioner or Commissioner's designee may then:
 - (a) limit the parties to oral argument;
 - (b) limit the parties to the filing of written argument within ten (10) days; or
 - (c) in the discretion of the Commissioner or Commissioner's designee, may proceed with the show cause hearing and take such further evidence as the Commissioner or Commissioner's designee deems necessary to fully enable the Commissioner or Commissioner's designee to determine the issues.
- (9) Opening statements are allowed by both the employer and the fund respectively.
- (10) Employer calls the employer's witnesses and the questioning proceeds as follows:
 - (a) Employer questions.
 - (b) Fund cross-examines.
 - (c) The Commissioner or Commissioner's designee questions.

- (11) The fund calls the fund's witnesses and the questioning proceeds as follows:
 - (a) Fund questions.
 - (b) Employer cross-examines.
 - (c) The Commissioner or Commissioner's designee questions.
- (12) The employer and the fund may call appropriate rebuttal and rejoinder witnesses after sufficient showing of the need therefor to the Commissioner or Commissioner's designee.
- (13) Closing arguments are allowed by both the employer and the fund respectively.
- (14) If at any time during the show cause hearing, a party fails or refuses to comply with any lawful order of the Commissioner or Commissioner's designee necessary to maintain the orderly conduct of such hearing, the Commissioner or Commissioner's designee may conclude the hearing. In such cases, the Commissioner or Commissioner's designee shall render a decision on the basis of whatever evidence is properly before the Commissioner or Commissioner's designee.
- (15) The Commissioner or Commissioner's designee advises all parties of the procedures used in reaching a decision. The Commissioner or Commissioner's designee further advises that copies of such decision shall be mailed to all interested parties.
- (16) Subparagraphs (1) through (15) of this rule are intended to be merely a general outline as to the conduct of a show cause hearing before the Commissioner or Commissioner's designee. A departure from the literal form or substance of this outline, in order to expedite or insure the fairness of proceedings, would not be in violation of this rule.

0800-2-15-.13 SCOPE OF EXAMINATION AND RULES OF EVIDENCE

- (1) In any show cause hearing before the Commissioner or Commissioner's designee, witnesses may be examined regarding any matter, not privileged, which is relevant and material to the issues to be determined at such hearing. The rules of evidence applicable at such hearing shall be as provided for in T.C.A. Section 4-5-313.
- (2) The Commissioner or Commissioner's designee may rule on and decide any question concerning the admissibility of evidence or procedural questions of law.
 - (a) It shall not be ground for objection that testimony will be inadmissible at the show cause hearing if, in the discretion of the Commissioner or Commissioner's designee, the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence.
- (3) If an objection to proffered evidence is sustained by the Commissioner or Commissioner's designee, the examining party or attorney may make a specific offer of what the examining party or attorney expects to prove by that evidence.

0800-2-15-.14 BURDEN OF PROOF

- (1) The burden of proof at a show cause hearing shall be on the employer to produce documentary evidence that the employer is not subject to the Workers' Compensation Law or that the employer was in compliance with the Workers' Compensation Law at all relevant times.

0800-2-15-.15 DETERMINATIONS PURSUANT TO SHOW CAUSE HEARING

- (1) If the Commissioner or Commissioner's designee determines pursuant to a show cause hearing that the employer is not subject to the Workers' Compensation Law and has not been subject to the Workers' Compensation Law at any relevant times, then the Commissioner or Commissioner's designee shall determine that all monetary penalties assessed against the employer shall be void.
- (2) If the Commissioner or Commissioner's designee determines pursuant to a show cause hearing that the employer had secured payment of compensation at all relevant times prior to the date of receipt of the first certified letter and has continued to secure payment of compensation at all relevant times as required by the Workers' Compensation Law, then the Commissioner or Commissioner's designee shall determine that all monetary penalties assessed against the employer shall be void.
- (3) If the Commissioner or Commissioner's designee determines pursuant to a show cause hearing that the employer had secured payment of compensation as required by the Workers' Compensation Law after the date of receipt of the first certified letter but before the date of the show cause hearing, then the Commissioner or Commissioner's designee shall order:
 - (a) that the first monetary penalty assessed against the employer equal to one and one-half times the employer's average yearly workers' compensation insurance premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be due; and
 - (b) that the second monetary penalty assessed against the employer equal to the employer's average yearly workers' compensation insurance premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be held in abeyance.
- (4) If the Commissioner or Commissioner's designee determines pursuant to a show cause hearing that the employer has secured payment of compensation as required by the Workers' Compensation Law but failed at any relevant time to secure payment of compensation as required by the Workers' Compensation Law, then the Commissioner or Commissioner's designee shall order:
 - (a) that the first monetary penalty assessed against the employer equal to one and one-half times the employer's average yearly workers' compensation insurance premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be due; and
 - (b) that the second monetary penalty assessed against the employer equal to the employer's average yearly workers' compensation insurance premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be held in abeyance.
- (5) If the Commissioner or Commissioner's designee determines pursuant to a show cause hearing that the employer continues to fail to secure payment of compensation as required by the Workers' Compensation Law, then:
 - (a) the Commissioner or Commissioner's designee shall issue an order against the employer ordering the employer:
 1. to procure workers' compensation insurance coverage; and
 2. to provide to the Department proof of coverage, with supporting documentation, within five (5) days, excluding Saturdays, Sundays, and holidays, from the date of issuance of the order.
 - (b) If the employer obtains workers' compensation insurance coverage and provides the Department with proof of coverage as ordered by the Commissioner or Commissioner's designee, then:

1. the first monetary penalty assessed against the employer equal to one and one-half times the employer's average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be due; and
 2. the second monetary penalty assessed against the employer equal to the employer's average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be held in abeyance.
- (c) If the employer fails to obtain workers' compensation insurance coverage as ordered by the Commissioner or Commissioner's designee within the required time period, then all monetary penalties, totaling two and one-half times the average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be immediately due and payable.

0800-2-15-.16 COLLECTION OF PENALTIES

- (1) To collect from employers any unpaid monetary penalties which are due and have been ordered by the Commissioner or Commissioner's designee pursuant to a final order, the Commissioner or Commissioner's designee may seek monetary judgments in the Chancery Court of Davidson County, Tennessee.
- (2) To collect from employers any unpaid monetary penalties which are due and have been ordered pursuant to a final monetary judgment of the Chancery Court of Davidson County, Tennessee, the Commissioner or Commissioner's designee may:
 - (a) refer cases to the Attorney General; or
 - (b) utilize the services of a collection agency.

0800-2-15-.17 INJUNCTIONS

- (1) The Commissioner or Commissioner's designee may seek an injunction in the Chancery Court of Davidson County, Tennessee to prohibit an employer from operating its business in any way until the employer has complied with an order by the Commissioner or Commissioner's designee to obtain workers' compensation insurance coverage.
- (2) In the event an employer shall fail to comply with the requirements of the Workers' Compensation Law by failing to secure payment of compensation on a second or subsequent occasion, the Commissioner or Commissioner's designee may seek an injunction in the Chancery Court of Davidson County, Tennessee to prohibit the employer from operating its business in any way until the employer provides proof, with accompanying documentation, that it has complied with the Workers' Compensation Law by securing payment of compensation.

0800-2-15-.18 APPEAL

- (1) The employer shall have the right to appeal, pursuant to the Tennessee Administrative Procedures Act, any decision made by or order issued by the Commissioner or Commissioner's designee.

Authority: T.C.A. §§50-6-412, 50-6-233, 50-6-118, and 50-6-801

The proposed rules set out herein were properly filed in the Department of State on the 11th day of March, 2002, 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 29th day of July, 2002. (03-06)

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

- 0780 - Department of Commerce and Insurance, Division of TennCare and Division of Insurance, public necessity rules dealing with uniform TennCare claims process, standardized instructions for completing the form and standardized responses to questions and other information required on the form, for providers and managed care organizations participating in the TennCare program to use in the submission of claims by providers seeking payment, Chapter 0780-1-73 Uniform Claims Process for TennCare Participating Managed Care Organizations, 1 T.A.R. (January 2002) - Filed January 31, 2002; effective through June 14, 2002. (12-27)
- 1240 - Department of Human Services - Child Support Division - Public Necessity Rules relating to child support payments, chapter 1240-2-3 Miscellaneous IV-D, 12 T.A.R. (December 2001) - Filed November 1, 2001 effective through April 15, 2002. (12-22)
- 1680 - Department of Transportation - Public Transportation, Waterways, and Rail Division - Public Necessity Rules relating to review and approval of Construction of public and/or private highway-railroad grade crossings, 2 T.A.R. (February 15, 2002) - Filed January 16, 2002. Effective March 1, 2002 through August 13, 2002. (01-32) The Department of Transportation rules in the Public Necessity section of the February 15, 2002 Tennessee Administrative Register are Public Necessity rules effective March 1, 2002 for 165 days through August 13, 2002. The Secretary of State regrets the error. The Chapter of the rules is 1680-12-1, Railroad Grade Crossing Standards.

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RULEMAKING HEARINGS

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

There will be a hearing before the Board for Licensing Health Care Facilities to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 68-11-202 and 68-11-209. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Tennessee room on the ground floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 9:00 a.m. (CDT) on the 16th day of May, 2002.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Care Facilities 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 Care Facilities, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-0508, (615) 741-7598.

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

Steve Goodwin, Health Facility Survey Manager, Division of Health Care Facilities, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-0508, (615) 741-7598.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1200-8-21-.01, Definitions, is amended by adding the following language as four (4), new, appropriately numbered paragraphs:

- () Counseling Session. Therapeutic discussion between client(s) and a facility counselor for a period of no less than thirty (30) minutes designed to address client addiction issues or coping strategies and treatment plans.
- () Observed Testing. Testing conducted and witnessed by a facility staff person to ensure against falsification or tampering of results of a drug screen.
- () Random Testing. Drug screens conducted by the facility that lack a definite pattern of who and when clients are selected for testing; indiscriminate testing.
- () Relapse. The failure of a client to maintain abstinence from illicit drug use verified through drug screen.

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

Rule 1200-8-21-.02, Licensing Procedures, is amended by deleting subparagraph (2)(a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2)(a) shall read:

- (2) (a) The applicant shall submit an application on a form provided by the Department along with a copy of the Certificate of Need (CON), if necessary, issued by the Tennessee Health Facilities Commission or any other applicable state agency. Any condition placed on the CON will also be placed on the license. The written application for operation of a NRNTF must be filed simultaneously with the Substance Abuse and Mental Health Services Administration and the DEA, and/or any other applicable federal agencies.

Authority: T.C.A. §§4-5-202 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, 68-11-213 and 68-11-216.

Rule 1200-8-21-.04, Administration, is amended by deleting parts (1)(f)21. in its entirety and substituting instead the following language, and is further amended by adding the following language as new part (1)(f)24., and is further amended by deleting subparagraph (4)(f) in its entirety and substituting instead the following language, so that as amended, the new parts (1)(f)21. and (1)(f)24. and the new subparagraph (4)(f) shall read:

- (1) (f) 21. Hours of operation shall accommodate persons involved in activities such as school, homemaking, child care and variable shift work. Facilities shall offer comprehensive services, including, but not limited to, individual and group counseling, medical exams and referral services, at least five days per week. Any patient in comprehensive maintenance treatment may receive a single take-home dose for each day that the clinic is closed for business, including Sundays and State and Federal holidays, not to exceed two (2) consecutive days. Facilities shall provide the SNA with at least two weeks notice prior to any change in program hours.
- (1) (f) 24. A Diversion Control Plan shall be in place at each clinic. The Diversion Control Plan must contain, at a minimum, the following:
- (i) The Diversion Control Plan shall apply to all clients receiving take-home medication.
 - (ii) It will include a random call back program with mandatory compliance. This call back must be in addition to the regular schedule of clinic visits.
 - (iii) Each client receiving take-home medications must be called back at a minimum of once per three (3) months.
 - (iv) Upon call back a client must report to the clinic within twenty-four (24) hours of notification, with all take-home medications. The quantity and integrity of packaging shall be verified. One dose must be replaced and sent for analysis to verify strength and contents.
 - (v) The facility shall maintain individual callback results in the client record.
 - (vi) The facility must maintain a current log of all callbacks with the results of compliance.
- (4) (f) Counselors. There must be sufficient group and individual counseling available to meet the needs of the client population. At a minimum, the following counseling schedule shall be followed:
- 1. During the first ninety (90) days of treatment, counseling session(s) shall take place at least one time a week;
 - 2. During the second ninety (90) days of treatment, counseling session(s) shall take place at least three (3) times per month;

3. During the third ninety (90) days of treatment, counseling session(s) shall take place at least two (2) times per month;
4. For subsequent ninety (90) day periods of treatment, counseling session(s) shall take place as needed or indicated in the client's treatment plan, but no less frequent than monthly as long as the client is compliant;
5. If the client experiences a relapse, his/her individualized treatment plan must document evidence of intensified services provided. Such evidence may include, but is not limited to, increase in individual or group counseling session(s) and/or a reduction in the client's take home privileges.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-209 and 68-11-222.*

Rule 1200-8-21-.05, Admissions, Discharges and Transfers, is amended by deleting subparagraph (4)(a) and paragraph (5) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (4)(a) and paragraph (5) shall read:

- (4) (a) To prevent simultaneous enrollment of a client in more than one facility, all facilities shall participate in a central registry approved by the Department. Clients must be informed of the facility's participation in the central registry and prior to initiating a central registry inquiry, the facility must obtain the client's signed consent. Within seventy-two (72) hours of admission, the facility shall initiate a clearance inquiry by submitting to the approved central registry the name, date of birth, anticipated date of admission or discharge and any other relevant information required for the clearance procedure. No person shall be admitted to a facility who is reported by the central registry to be participating in another such facility, or in the event a dual enrollment is found, the client must be discharged from one facility in order to continue enrollment at another facility. Reports received by the central registry shall be treated as confidential and shall not be released except to a licensed facility, or as required by law. Information made available by the central registry to facilities shall also be treated as confidential.
- (5) The facility shall provide services, as available, to clients to address their needs as indicated on the assessment/history in the areas of social/family/peer, employment/education/financial, emotional/psychological health, physical health, legal, and community living skills/housing. Such services may be provided directly by the agency or indirectly by referral to other service providers. Referral agreements with frequently used providers must be documented. The provision of such services to individual clients must be documented in the client record. The facility shall ensure that clients are instructed in the proper storage and security of take-home medications after they leave the facility.

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

Rule 1200-8-21-.06, Basic Services, is amended by adding the following language as new subparagraph (5)(h), and is further amended by deleting subparagraph (9)(c) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (5)(h) and (9)(c) shall read:

- (5) (h) Each client's individualized treatment plan must include the counseling needs, including both group and individualized counseling sessions as indicated by evaluation of the client's length of time in the program, drug screening results, progress notes, and social environment. The treatment plan must be reviewed at least every six (6) months.
- (9) (c) Take-home doses of methadone and LAAM shall be handled in accordance with applicable rules of the Substance Abuse and Mental Health Administration or other applicable federal agency. All requests for take home exceptions must be reviewed and approved by the SNA and any other applicable federal agency.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-209, 68-11-222, 68-11-305 and 68-11-308.

The notice of rulemaking set out herein was properly filed in the Department of State on the 11th day of March, 2002. (03-07)

BOARD OF MEDICAL EXAMINERS - 0880

There will be a hearing before the Tennessee Board of Medical Examiners to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 16th day of May, 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 RULE

AMENDMENT

Rule 0880-5-.11 Bone Densitometry, is amended by deleting subparagraphs (4) (f) and (4) (i) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (4) (f) and (4) (i) shall read:

- (4) (f) All applicants must provide proof of having successfully completed the A.R.R.T.'s Bone Densitometry Equipment Operators Examination.

- (4) (i) The following rules apply to certifications applied for and issued pursuant to this rule and are enforceable as if fully set out herein:
1. Rule 0880-5-.06 (3) and (4); and
 2. Rule 0880-5-.07; and
 3. Rule 0880-5-.08; and
 4. Rule 0880-5-.09; and
 5. Rule 0880-5-.10; and
 6. Rule 0880-5-.12.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, and 63-6-224.

The notice of rulemaking set out herein was properly filed in the Department of State on the 20th day of March, 2002. (03-09)

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

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Physical Therapy to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, and 63-13-304. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 3rd day of July, 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 1150-1-.06, Fees, is amended by deleting subparagraphs (4) (a) and (4) (g) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (4) (a) and (4) (g) shall read:

(4) (a) \$100.00 \$ 75.00

(4) (g) \$ 75.00 \$ 75.00

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, 63-13-304, 63-13-306, 63-13-307, and 63-13-308.

1150-1-.09, Renewal of License, is amended by deleting part (1) (c) 2. in its entirety and substituting instead the following language, and is further amended by adding the following language as new part (1) (c) 3., and is further amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new parts (1) (c) 2., (1) (c) 3., and the new paragraph (2) shall read:

(1) (c) 2. The renewal and State regulatory fees as provided in Rule 1150-1-.06; and

(1) (c) 3. A statement attesting to the completion of continuing competence requirements, as provided in Rule 1150-1-.12.

(2) Reinstatement of an expired license may be accomplished upon payment of the reinstatement fee and the renewal fee as provided in Rule 1150-1-.06, and by submitting proof of completing continuing competence requirements as provided in Rule 1150-1-.12.

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

Rule 1150-1-.11, Retirement and Reactivation of License, is amended by deleting subparagraph (3) (c) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (3) (c) shall read:

(3) (c) Complete the continuing competence requirements, as provided in Rule 1150-1-.12.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, 63-13-304, and 63-13-308.

Rule 1150-1-.12, Reserved, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as introductory language and paragraphs (1) through (11), so that as amended, the new catchline, the new introductory language, and the new paragraphs (1) through (11) shall read:

1150-1-.12 CONTINUING COMPETENCE. On January 1, 2003 the Committee shall begin to notify applicants for renewal of continuing competence requirements as provided in T.C.A. § 63-13-304 (6). The Committee shall require each licensed physical therapist and physical therapist assistant to participate in a minimum number of experiences to promote continuing competence for the two (2) calendar years (January 1-December 31) that precede the licensure renewal year (a.k.a. biennium). Beginning January 1, 2005 all applicants for licensure, renewal of license, reactivation of license, or reinstatement of license must demonstrate competency.

- (1) The requirements for continuing competence are defined as planned learning experiences which occur beyond the entry level educational requirements for physical therapists and physical therapist assistants. Content of the experience must relate to physical therapy whether the subject is intervention, examination, research, documentation, education, management, or some other content area. The purpose of this requirement is to assist in assuring safe and effective practices in the provision of physical therapy services to the citizens of Tennessee.
- (2) For applicants approved for initial licensure by examination, successfully completing the requirements of Rules 1150-1-.04, .05, and .08, as applicable, shall be considered proof of sufficient competence to constitute compliance with this rule for the initial period of licensure.
- (3) Two (2) Year Requirement (January 1-December 31) - Continuing competence credit is awarded for the clock hours spent in an activity as provided in paragraphs (5) and (6). All required hours may be met through Class I activities. Any Class I activity without a stated maximum number of hours may be used to accrue all required hours.
 - (a) Physical Therapist - Thirty (30) hours are required for the two (2) calendar years (January 1-December 31) that precede the licensure renewal year.
 1. Twenty (20) hours of the thirty (30) hour requirement must be from Class I as provided in paragraph (5).
 2. Ten (10) hours of the thirty (30) hour requirement may be from Class II as provided in paragraph (6).
 - (b) Physical Therapist Assistant – Twenty (20) hours are required for the two (2) calendar years (January 1-December 31) that precede the licensure renewal year.
 1. Ten (10) hours of the twenty (20) hour requirement must be from Class I as provided in paragraph (5).
 2. Ten (10) hours of the thirty (30) hour requirement may be from Class II as provided in paragraph (6).
- (4) Four (4) hours of the hours required in parts (3) (a) 1. and (3) (b) 1. must contain ethics and jurisprudence education. To fulfill the requirement, the APTA Guide for Professional Conduct, the APTA Code of Ethics and the Tennessee Physical Therapy Practice Act and Rules and Regulations must be included in the course.
- (5) Class I acceptable continuing competence evidence shall be any of the following:
 - (a) External peer review of practice with verification of acceptable practice by a recognized entity, e.g., American Physical Therapy Association. Continuing competence credit is twenty (20) hours per review with a maximum of one (1) review per biennium.
 - (b) Internal peer review of practice with verification of acceptable practice. Continuing competence credit is two (2) hours per review with a maximum of two (2) reviews during the two (2) year period.
 - (c) Courses, seminars, workshops, and symposia attended by the licensee which have been approved for continuing education units (CEUs) by appropriate CEU granting agencies.
 - (d) Courses, seminars, workshops, and symposia attended by the licensee and approved by the recognized health-related organizations (e.g., American Physical Therapy Association, Tennessee Physical Therapy Association, Arthritis Foundation, etc.).
 - (e) Home study courses or courses offered through electronic media approved by recognized health-related organizations or accredited physical therapy educational institutions, (e.g., American Physical Therapy Association, Tennessee Physical Therapy Association, Arthritis Foundation, U.T. Center for Health Sciences, etc.) and that include objectives and verification of satisfactory completion.

- (f) University credit courses - Continuing competence credit is twelve (12) hours per semester credit hour.
 - (g) Participation as a presenter in continuing education courses, workshops, seminars or symposia which have been approved by recognized health-related organizations. Continuing competence credit is based on contact hours and may not exceed twenty (20) hours per topic.
 - (h) Authorship of a presented scientific poster, scientific platform presentation or published article undergoing peer review. Continuing competence credit is ten (10) hours per event and may not exceed twenty (20) hours.
 - (i) Teaching a physical therapy or physical therapist assistant credit course when that teaching is an adjunct responsibility and not the primary employment. Continuing competence credit is based on contact hours not to exceed twenty (20) hours. If the same course is taught more than once, contact hours may only be counted once.
 - (j) Certification of clinical specialization by the American Board of Physical Therapy Specialties (ABPTS). Continuing competence credit is twenty-six (26) hours and is recognized only in the biennium in which certification or recertification is awarded.
 - (k) Certification of clinical specialization by organizations other than the ABPTS (e.g. the McKenzie Institute, the Neuro Developmental Treatment Association, the Ola Grimsby Institute, etc.) may be recognized as continuing competence credit up to twenty-six (26) hours, in the biennium in which certification is awarded. The number of continuing competence credit hours awarded is determined by the Committee.
 - (l) Awarding of an advanced degree from an accredited University. Continuing competence credit twenty-six (26) hours and is recognized only in the biennium in which certification or recertification is awarded.
 - (m) Participating in a clinical residency program. Continuing competence credit is five (5) hours credit for each week of residency with a maximum of twenty-six (26) hours.
- (6) Class II acceptable continuing competence evidence shall be any of the following
- (a) Self-instruction from reading professional literature. Continuing competence credit is limited to a maximum of one (1) hour each biennium.
 - (b) Attendance at a scientific poster session, lecture, panel or symposium that does not meet the criteria for Class I. Continuing competency credit is one (1) hour per hour of activity with a maximum of two (2) hours credit each biennium.
 - (c) Serving as a clinical instructor for an accredited physical therapist or physical therapist assistant educational program. Continuing competence credit is one (1) hour per sixteen (16) contact hours with the student(s).
 - (d) Acting as a clinical instructor for physical therapist participating in a residency or as a mentor for a learner for a formal, nonacademic mentorship. Continuing competence credit is one (1) hour per sixteen (16) contact hours.
 - (e) Participating in a physical therapy study group consisting of two (2) or more physical therapists or physical therapist assistants. Continuing competence credit is limited to a maximum of one (1) hour credit.

- (f) Attending and/or presenting in-service programs. Continuing competence credit is one (1) hour per eight (8) contact hours with a maximum of four (4) hours credit per biennium.
 - (g) Serving the physical therapy profession as a delegate to the APTA House of Delegates, on a professional committee, board, or task force. Continuing competence credit is limited to a maximum of one (1) hour credit;
- (7) Unacceptable activities for continuing competence include, but are not limited to:
- (a) Meetings for purposes of policy decisions;
 - (b) Non-educational meetings at annual association, chapter or organization meetings;
 - (c) Entertainment or recreational meeting or activities; and
 - (d) Visiting exhibits.
- (8) Documentation of compliance
- (a) Each licensee must retain documentation of completion of all continuing competence requirements of this rule for a period of five (5) years from when the requirements were completed. This documentation must be produced for inspection and verification, if requested in writing by the Committee during its verification process.
 - (b) The licensee must, within thirty (30) days of a request from the Committee, provide evidence of continuing competence activities.
 - (c) Any licensee who fails to complete the continuing competence activities or who falsely certifies completion of continuing competence activities may be subject to disciplinary action pursuant to T.C.A. §§ 63-13-304, 63-130-312, 63-13-313, and 63-13-315.
 - (d) Examples of documentation
 1. A signed peer review report or an official program or outline of the course attended or taught or copy of the publication which clearly shows that the objectives and content were related to physical therapy and shows the number of contact hours, as appropriate. The information also should clearly identify the licensee's responsibility in teaching or authorship.
 2. A CEU certificate or verification of completion of home study which identifies the sponsoring entity, or a copy of the final grade report in the case of a University credit course(s), or specialization certificate, or proof of attendance with a copy of the program for the other acceptable Class I or II activities, or documentation of self-instruction or reading professional literature.
- (9) Reactivation of an Expired or Retired License
- (a) Expired or retired less than three (3) years – A licensee shall submit the appropriate application and documentation of continuing competence, as provided in paragraph (8), for the two (2) year period that precedes the expiration or retirement year.
 - (b) Expired or retired more than three (3) years

1. A licensee shall submit the appropriate application and documentation of continuing competence, as provided in paragraph (8), for the two (2) year period that precedes the expiration or retirement year; and
 2. The Committee may, at its discretion, require additional education, supervised clinical practice, or successful passage of examinations.
- (10) The Committee, in cases of documented illness, disability, or other undue hardship, may waive the continuing competence requirements and/or extend the deadline to complete continuing competence requirements. To be considered for a waiver of continuing competence requirements, or for an extension of the deadline to complete the continuing competence requirements, a licensee must request such in writing with supporting documentation before the end of the two (2) year period in which the continuing competence requirements were not met.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, 63-13-304, 63-13-308, and 63-13-309.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 11th day of March, 2002. (03-08)

THE TENNESSEE DEPARTMENT OF TRANSPORTATION - 1680 RIGHT-OF-WAY DIVISION

The Tennessee Department of Transportation will hold a public hearing to receive comments concerning the promulgation of new regulations governing the Relocation Assistance Program in Chapter 1680-2-4. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. §4-5-201, et seq., and will take place in Main Conference Room on the 7th Floor of the James K. Polk Building located at 505 Deaderick Street, Nashville, Tennessee 37243 at 1:00 p.m. CDT on Monday, May 20, 2002.

Written comments will be considered if received by the close of business (4:30 p.m.) on May 20, 2002, in the Office of General Counsel, Tennessee Department of Transportation, Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332.

Individuals with disabilities wishing to participate in these proceedings (or to review these filings) should contact the Department of Transportation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone or other appropriate means, and should be made no less than ten (10) days prior to the public hearing (May 20, 2002) or the date the party intends to review such filings to allow time to provide such aid or service. Such contact may be made with the Department of Transportation's ADA Coordinator at Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332, or by telephone at (615) 741-4984.

For a copy of the entire text of this notice of rulemaking hearing, contact: John H. Reinbold, Tennessee Department of Transportation, Office of General Counsel, Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332, telephone number (615) 741-2941, or visit the Tennessee Department of Transportation website at www.tdot.state.tn.us and go to Public Involvement, Rulemaking Hearings.

SUMMARY OF PROPOSED RULES

**CHAPTER 1680-2-4
RELOCATION ASSISTANCE PROGRAM**

The proposed rules are a complete revision of Chapter 1680-2-4, which establishes criteria and procedures to implement the Uniform Relocation Assistance Act of 1972, T.C.A. §13-11-101 et seq. As provided in the Act, the purpose of these rules is to establish a uniform policy for the fair and equitable treatment of persons who are displaced from their homes or businesses as a direct result of projects undertaken by the Department, or by local governments or other persons undertaking projects with federal or state financial assistance administered by the Department, so that the displaced persons do not suffer a disproportionate burden or hardship from a project designed to benefit the public as a whole. It is also the purpose of these rules to assure compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §4601 et seq., and the implementing regulations at 49 C.F.R., Part 24, where applicable to projects undertaken with federal financial assistance. The proposed revisions update the Department’s relocation assistance program to bring it into conformity with, and in many instances these rules are modeled on, the federal rules. The table of contents for the proposed rules is as follows:

TABLE OF CONTENTS

1680-2-4-.01 Purpose	1680-2-4-.09 Relocation Payments Generally
1680-2-4-.02 Applicability	1680-2-4-.10 Moving Payments - Residential
1680-2-4-.03 Definitions	1680-2-4-.11 Moving Payments - Non-Residential
1680-2-4-.04 Administration — General	1680-2-4-.12 Ineligible Moving Expenses
1680-2-4-.05 Relocation Plan	1680-2-4-.13 Replacement Housing Payments
1680-2-4-.06 Relocation Notices	1680-2-4-.14 Mobile Homes
1680-2-4-.07 Relocation Assistance Advisory Services	1680-2-4-.15 Last Resort Housing
1680-2-4-.08 Aliens Not Lawfully Present in the United States	1680-2-4-.16 Appeals

Authority: T.C.A. §13-11-101 et seq.

The specific contents of each rule are summarized below:

1680-2-4-.01 PURPOSE.

This rule defines the purposes of the Chapter, as described in the general summary above.

Authority: T.C.A. §§13-11-102, 13-11-113 and 13-11-119.

1680-2-4-.02 APPLICABILITY.

This rule states that the Chapter as a whole applies to projects undertaken by the Department of Transportation, to projects undertaken by local agencies with federal or state financial assistance administered by or through the Department, and projects undertaken by any other person with federal financial assistance administered by or through the Department.

Authority: T.C.A. §§13-11-102 and 13-11-113.

1680-2-4-.03 DEFINITIONS.

This rule defines terms that are used elsewhere in the Chapter.

Authority: T.C.A. §§13-11-103 and 13-11-113.

1680-2-4-.04 ADMINISTRATION — GENERAL.

This rule establishes certain administrative policies and requirements, e.g., with respect to contracting, civil rights, and recordkeeping.

Authority: T.C.A. §§13-11-112, 13-11-113, 13-11-114 and 13-11-119.

1680-2-4-.05 RELOCATION PLAN.

This rule establishes general guidelines for developing relocation plans prior to the undertaking of a project that may result in the displacement of persons from homes or businesses.

Authority: T.C.A. §13-11-113.

1680-2-4-.06 RELOCATION NOTICES.

This rule establishes requirements for notices that are to be sent to displaced persons at successive stages of the relocation process to identify their rights and eligibility for assistance.

Authority: T.C.A. §13-11-113.

1680-2-4-.07 RELOCATION ASSISTANCE ADVISORY SERVICES.

This rule describes the categories of persons who may be eligible for relocation assistance advisory services and the kinds of services that are to be provided before and after displacement, including assistance in identifying comparable replacement dwellings available for purchase.

Authority: T.C.A. §§13-11-108 and 13-11-113.

1680-2-4-.08 ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.

This rule describes the federal requirements for obtaining and reviewing certifications stating that the persons seeking relocation assistance benefits are citizens of the United States or aliens lawfully present in the United States eligible to receive such benefits. Aliens not lawfully present in the United States are not eligible for relocation benefits except in certain exceptional hardship cases.

Authority: T.C.A. §13-11-113.

1680-2-4-.09 RELOCATION PAYMENTS GENERALLY.

This rule establishes procedures for filing and reviewing claims for relocation benefits. It also contains other statements of policy regarding relocation payments in general, e.g., that such payments are not to be considered income, that deductions from relocation payments may be made under certain specified circumstances, etc.

Authority: T.C.A. §§13-11-113, 13-11-115 and 13-11-117.

1680-2-4-.10 MOVING PAYMENTS — RESIDENTIAL.

This rule identifies, and establishes various methods for paying, eligible expenses incurred by displaced persons in connection with moving to replacement housing.

Authority: T.C.A. §§13-11-105 and 13-11-113.

1680-2-4-.11 MOVING PAYMENTS — NON-RESIDENTIAL.

This rule identifies, and establishes methods for paying, eligible expenses incurred by displaced persons in connection with moving a business or farm operation to a new location.

Authority: T.C.A. §§13-11-105 and 13-11-113.

1680-2-4-.12 INELIGIBLE MOVING EXPENSES.

This rule identifies certain ineligible moving expenses.

Authority: T.C.A. §§13-11-105 and 13-11-113.

1680-2-4-.13 REPLACEMENT HOUSING PAYMENTS.

This rule establishes eligibility standards and methods for computing the replacement housing payments that may be made available to assist displaced persons in obtaining replacement housing.

Authority: T.C.A. §§13-11-106, 13-11-107, and 13-11-113.

1680-2-4-.14 MOBILE HOMES.

This rule contains special provisions for moving expenses and replacement housing payments for mobile homes.

Authority: T.C.A. §13-11-113.

1680-2-4-.15 LAST RESORT HOUSING.

This rule establishes eligibility criteria and methods for providing “last resort housing” in special circumstances where replacement housing is not available within the maximum replacement housing payments otherwise established by law.

Authority: T.C.A. §§13-11-109 and 13-11-113.

1680-2-4-.16 APPEALS.

This rule establishes procedures for appeal to the head of the displacing agency where a displaced person believes the agency has improperly determined the person's eligibility for relocation benefits or has improperly calculated the amount of a relocation payment.

Authority: T.C.A. §13-11-113.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of March, 2002. (03-15)

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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 March 1, 2002 and ending March 29, 2002.



RILEY C. DARNELL
Secretary of State